

## Land Improvement and Arterial Drainage (Ireland) Bill.

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### MEMORANDUM.

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This Bill, like the Board of Works Bill, has been prepared in pursuance of the recommendation of the Committee presided over by Lord Crichton, by their Report in 1878, that the Acts administered by the Commissioners of Public Works in Ireland should be consolidated.

Part I. consolidates the "Improvement of Land Acts" (see first part of Second Schedule). Part II. consolidates with some amendments the "Drainage and Improvement of Lands Act (Ireland), 1863," and its amending Acts. Certain Acts passed previously to the year 1863, and providing for the execution of works for arterial drainage in districts, are now obsolete, except for the purpose of maintaining and repairing the works executed under them. The Bill accordingly makes provision for the maintenance and repair of such works, and it is proposed to repeal the Acts in question (see second part of Second Schedule).

Parts I. and II. of the Bill are therefore to be considered as altogether distinct from one another, and, taken in connexion with the Board of Works Bill, as supplying respectively a complete system for carrying out the objects of the two sets of Acts. Such of the provisions of those Acts as are applicable to the general business of the Commissioners are embodied in the Board of Works Bill. It is intended that all loans made by the Commissioners should be considered as loans under the Board of Works Bill, and that Bill will apply accordingly in all cases so far as it is applicable. Under that Bill there is a wide power vested in the Commissioners to make regulations with the consent of the Treasury with respect to the conduct of their business under any Act. Some of the details of the Acts consolidated by this Bill are left to be supplied by such regulations.

Part III. merely contains definitions and the repeal of the Acts consolidated.

References are made in the margin of the several clauses to the corresponding enactments in the existing Acts.

[Bill 166.]

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PART I.—*Improvement of Land.*

The definition of an "owner of land," entitled to apply to the Commissioners of Works for a loan under this Part of the Bill, includes a leaseholder having 40 years of his lease unexpired, and also a leaseholder having only 25 years unexpired if he has previously given notice to his landlord of his intention to make such an application. Upon the registration in the office for registry of deeds at Dublin of an order of the Commissioners granting a loan, the land becomes charged with an annuity for the payment of all sums advanced. The amount of the annuity is (as at present) either 6l. 10s. per cent. of the advance, payable for 22 years, or else 5l. per cent., payable for 35 years; it has priority over other charges, subject to certain exceptions, and it is payable by the "owner" for the time being of the land.

If a loan made by the Commissioners is not properly applied, the Commissioners have power to enter on the land and themselves to execute the necessary work, charging their expenses as if they were a loan.

Under the existing law the Commissioners are required, on the application of the owner, to fix the amount of increased rent (if any) which the occupier ought to pay by reason of the improvement of the land. A provision for a similar purpose has been inserted in the Bill.

The definition of "a loan or work for the improvement of land" contained in Part III. is framed in accordance with the Acts referred to in the margin.

PART II.—*Arterial Drainage.*

The clauses relating to the formation of the drainage district embody generally the existing law, with three exceptions.

*First.* To lessen the delay sometimes occasioned by the necessity of obtaining an Act of Parliament confirming the Provisional Order by which the district is constituted, it is proposed to allow a Provisional Order under this Part of the Bill to take effect after it has lain for 30 days on the table of both Houses of Parliament without any resolution having been passed against it. The proposal to dispense with a confirming Act is in accordance with the views expressed by Lord Oricton's Committee.

*Secondly.* Power is proposed to be given to include urban sanitary districts in drainage districts, the sanitary authority being treated

as an owner of land, and having such number of votes in the election of members of the drainage board as the Commissioners of Works may allot to them, and paying the charges out of their rates. This additional power was advised by Lord Orichton's Committee.

*Thirdly.* In accordance with views expressed by many persons interested in the improvement of Ireland by means of arterial drainage works, it is proposed in certain cases to allow the occupying tenant to be substituted for the owner for the purposes of this Part of the Bill.

This substitution may be effected in two ways; either it may be effected by agreement between the owner and occupier, or, in case the owner either dissents from or does not assent to the proposed constitution of a drainage district, the Bill authorises the Commissioners of Works, on the application of the occupier, and subject to certain specified restrictions intended to protect the interests of the owner, to transfer to the occupier the powers, duties, and liabilities of the owner with respect to the drainage district and works. These powers, duties, and liabilities are intended to be attached to the occupier for the time being during the continuance of the existing tenancy, and thereafter to revert to the owner.

The substitution of the occupier for the owner is, however, to be without prejudice to the right of the owner to object to the formation of the district; and under the Bill, as under the existing law, amended since Lord Orichton's Report, if one third in value of the owners so object, the district cannot be constituted.

The definition of "owner" includes a leaseholder having not less than 40 years of his lease unexpired.

With respect to the execution, expenses, and maintenance of the works, the clauses of the Bill (with one or two exceptions, which will be noticed) differ little save in form from the enactments referred to in the margin. Thus, the drainage board has power to carry out the works for which it has been constituted, and has power to borrow for the purpose of such works. After the completion of the works the expenses are apportioned by the award of the Commissioners on the different lands benefited, which are charged for the payment of the apportioned amounts in accordance with the terms of the award. A separate award is made charging the lands with the repayment of any sums advanced by the Commissioners by means of an annuity similar to that charged under Part I. of the Bill and already mentioned. The sums charged are payable by the owners for the time being. There is also a provision similar to that in Part I., for the purpose

of enabling the owner to obtain a contribution from his tenant toward the expenses by means of an increase of rent. The maintenance of the works is provided for by means of a maintenance rate charged on the lands, and powers are given to enforce such maintenance.

In the clause incorporating the Lands Clauses Consolidation Acts for the purpose of enabling the drainage board to carry out its works, an enactment has been inserted in accordance with the Report of the Committee of 1878, enabling cases of disputed compensation, where the amount claimed is small, to be settled in a summary way by a court of petty sessions.

In order to facilitate the recovery of sums charged on land for payment of any expenses incurred under this Part of the Bill, it is proposed to authorise the occupier to pay any such sums, and deduct the amount from his rent. At present this mode of paying the charges applies only in the case of annuities for the repayment of public advances.

The remaining supplemental enactments of this Part of the Bill are generally in accordance with existing law.

There is no definition in the Acts of what is meant by "works for arterial drainage." A definition has been inserted in Part III.

The scale of voting and rules as to the election and proceedings of drainage boards are in accordance with the Act of 1863.

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# Land Improvement and Arterial Drainage (Ireland) Bill.

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## ARRANGEMENT OF CLAUSES.

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A.D. 1881.

### *Preliminary.*

#### *Classes.*

1. Short title and commencement of Act.
  2. Extent of Act.
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## PART I.

### IMPROVEMENT OF LAND.

3. Application for loan and preliminary proceedings thereupon.
  4. Proceedings where Commissioners entertain application.
  5. Registration and effect of order for loan.
  6. Charge on land of annuity for repayment of loan.
  7. Recovery of annuity.
  8. Annuity not to preclude trustees from investing money in land charged.
  9. Power to modify work, and make further loan.
  10. Power to reduce expenditure and withhold part of loan.
  11. Power to owner to enter on lands and carry out works.
  12. Power to Commissioners to complete works in case of default.
  13. Works to be maintained.
  14. Power to Commissioners to summon witnesses.
  15. Saving of rights of Crown and Board of Trade.
  16. Acts incorporated.
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## PART II.

### ARTERIAL DRAINAGE.

#### *Formation of Drainage District.*

17. Application to Commissioners to form drainage district.
18. Inquiry and report by inspector.
19. Constitution of district.
20. Sanction of Parliament to order constituting drainage district.
21. Alteration of works and extension of time.

A.D. 1884.

*Constitution, Powers, and Duties of Drainage Boards.*

Clause.

22. Constitution of drainage board.
23. Regulations for drainage board.
24. Qualification of electors.
25. Certain provisions of 10 & 11 Vict. c. 16, incorporated.
26. Drainage board to purchase land and execute works.
27. Provision with respect to works outside district.
28. Regulations as to purchase of lands.
29. Sale of land not required.
30. Enforcement of execution of works by drainage board.

*Expenses of Works.*

31. Power to drainage board to borrow.
32. Power to apply to Commissioners for loan.
33. Award by Commissioners apportioning expenses.
34. Proceedings with respect to award.
35. Charge on lands of apportioned expenses.
36. Provision in case of nonpayment of charge.
37. Award by Commissioners for loan advanced by them.
38. Charge on lands for repayment of loan made by Commissioners.
39. Recovery of annuity payable to Commissioners.
40. Determination by Commissioners of annual sum payable by occupier.
41. Charge not to preclude trustees from investing money in land charged.
42. Provision as to expenses of works executed outside district.
43. Charges to extend to the entire denomination of land.
44. Release of a part of land charged.
45. Commissioners to fix contribution payable by mill owner.

*Maintenance of Works.*

46. Annual rate for maintenance of works.
47. Power to owner of land to enforce maintenance of works.
48. Power of Commissioners to enforce maintenance of works.

## Class.

49. Charging order for expenses of repair executed by Commis- A.D. 1884.  
sioners.
50. Power to Commissioners to appoint a collector.

*Supplemental Provisions.*

51. Provision as to urban sanitary district included in drainage district.
52. Substitution of tenant for owner for purposes of this Part of this Act.
53. Payment of charge by occupier.
54. Contracts by drainage board for pumping works.
55. Drainage board to provide for regulation of floodgates, &c.
56. Power to dig for materials.
57. Removal and rebuilding of bridges under public roads.
58. Power to owners of canals, &c., to alter works.
59. Provision in case of alteration of local boundary.
60. Penalty for creating obstructions or nuisances.
61. Penalty for obstructing drainage board or injuring works.
62. Costs of legal proceedings by drainage board.
63. Protection of persons acting under this part of Act.
64. Compensation to be ascertained as herein provided.
65. Annual value of land, how ascertained.
66. Saving of existing liabilities to repair.
67. Saving of rights of canal owners and others.
68. Incorporation of certain provisions of Part I. of Act.

## PART III.

## DEFINITIONS AND REPEAL.

69. Definition of improvement of land.
70. Definition of arterial drainage.
71. Definition of owner of land.
72. General definitions.
73. Repeal, and provision as to references to repealed Acts.

## SCHEDULES.





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B I L L

TO

Consolidate and amend the Acts for facilitating the Im- A.D. 1884,  
provement of Landed Property, and for the Drainage and  
Improvements of Lands in Ireland.

**B**E it enacted by the Queen's most Excellent Majesty, by and  
with the advice and consent of the Lords Spiritual and  
Temporal, and Commons, in this present Parliament assembled, and  
by the authority of the same, as follows :

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*Preliminary.*

1. This Act may be cited as the Land Improvement and Arterial Drainage (Ireland) Act, 1884. Short title  
and com-  
mencement  
of Act.

This Act shall come into operation on the *first day of April*  
*one thousand eight hundred and eighty-five*, which day is herein-  
10 after referred to as the commencement of this Act.

2. This Act shall extend only to Ireland.

Extent of  
Act.

PART I.

IMPROVEMENT OF LAND.

3.—(1.) Every owner of land proposing to undertake under the  
15 provisions of this Part of this Act any work for the improvement of  
any land of which he is owner may make application in writing to the  
Commissioners for a loan; and such application shall contain such  
particulars and be accompanied by such plan of the said land, and  
such plan, estimate, and specification of the proposed work, as may  
20 be prescribed or required by the Commissioners.

Application  
for loan, and  
preliminary  
proceedings  
thereupon.  
[10 Vict.  
c. 32. s. 11.]

(2.) The Commissioners may thereupon, if they think fit, cause  
the said land, and the said plans, estimate, and specification, to be  
inspected and examined by a competent person, who shall make a  
report thereon, and shall in such report declare whether or not in

[10 Vict.  
c. 32. s. 16.]

[Bill 166.]

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A.D. 1884. his opinion the proposed or any other work will effect immediately or prospectively an improvement in the annual value of the land to an amount exceeding the utmost annual amount to be charged thereon as herein-after mentioned in respect of the loan applied for, or the sum necessary to be expended, and he shall annex to such report either the same or (if he thinks fit, for the purpose of carrying out the work in a substantial and durable manner) some other plan, specification, and estimate; and the Commissioners may make such further and other inquiries in relation to any such application as they may think fit, and may alter or modify any such plan, specification, and estimate, in such manner as they may think fit. 5 10

Proceedings  
where Com-  
missioners  
entertain  
application.  
[See 10 Vict.  
c. 82. ss. 19,  
20.]

4. Where application is made to the Commissioners for a loan for the improvement of land, and they after such inquiries and report as herein-before mentioned think fit to entertain such application, the following proceedings shall take place; that is to say, 15

(1.) The Commissioners shall publish notice of the application once in the Dublin Gazette, and on two successive weeks, (once at least in each week) in some newspaper circulating either in Dublin or in the county in which the land in relation to which the application is made is situate; the said notice shall contain the name of the applicant, and such description as the Commissioners think sufficient of the said land, together with the amount of loan applied for; and all persons claiming to be interested in the said land, and all other persons whom it may concern, shall be required by the said notice to send to the Commissioners within a period appointed in the said notice (being not less than fourteen days from the said publication in the Dublin Gazette) their objections (if any) to such application, or to any statement therein contained, or to the loan applied for, with their reasons for such objections: 20 25 30

(2.) In case any person within the said appointed period signifies in writing to the Commissioners any such objection as aforesaid, and the nature of his estate or interest in or charge upon the said land (if any), the Commissioners shall notify such objection to the applicant, and shall by notice given to the applicant and to any person signifying such objection as aforesaid appoint a day and place for hearing such objection; and on the day and at the place appointed the Commissioners or any one of them shall hold a meeting, and hear and inquire into such objection, and all such other matters relating to the application as are then and there brought before them or him: 35 40

(3.) After full inquiry has been made as aforesaid into all such objections and other matters, or, in case no objection has been made, then at any time after the expiration of the period limited for making such objections, the Commissioners, if they are satisfied that it will be beneficial to all persons interested in the land to which such application relates that such loan should be made, may make such order as they think fit with respect to the making of such loan, and the execution of the proposed work according to any plan, specification, and estimate approved by them; and such order shall specify the lands to be charged with such loan.

A.D. 1894.

The Commissioners may fix for the completion of the work for which any such loan is made such period, and from time to time such further period, within seven years from the date of the first advance in respect of such loan, as they think fit.

[25 & 26 Vict.  
c. 29, s. 5.]

5.—(1.) Where the Commissioners make an order for a loan for the improvement of land they shall execute a duplicate thereof, and shall, at the expense of the applicant, forthwith cause the said duplicate to be registered in the office for registry of deeds in the city of Dublin.

Registration  
and effect of  
order for  
loan.  
[10 Vict.  
c. 32, ss. 21,  
22.]

(2.) From the date of such registry, the lands specified in that behalf in the order shall be charged, in manner provided in this Part of this Act, with an annuity for the repayment with interest of all sums from time to time advanced on account of the said loan.

(3.) Every such order in respect of the lands therein specified shall be binding upon all persons having any estate or interest in such lands, or lien or incumbrance thereon, and shall be conclusive evidence that the several proceedings herein-before directed to be taken and observed have been duly complied with; and that all objections to the making of any loan have been withdrawn, disallowed, or removed; and such order of the Commissioners, or any advances of money to be made in pursuance thereof, shall not be questioned in respect of any thing whatsoever done or omitted to be done under the provisions of this Part of this Act, or for any other reason whatsoever.

6.—(1.) Any lands charged for the repayment, with interest, of a loan made by the Commissioners in pursuance of this Part of this Act, shall be charged with the payment to the Commissioners of an annuity of *six and a half* per cent. on the amount advanced on account of such loan; and such annuity shall be payable for the term of *twenty-two* years, commencing, as to every advance made in respect

Charge on  
land of  
annuity for  
repayment  
of loan.  
[10 Vict.  
c. 32, s. 37.]

[166.]

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A.D. 1884. of such loan, on the then next *fifth of April or tenth of October*,  
— — — — — whichever of those days next succeeds the date of such advance :

[39 & 40 Vict.  
c. 40, s. 3.] Provided that the Commissioners, if they think fit, may, with the  
consent of the Treasury, substitute an annuity of *five per cent.* for  
the said annuity of *six and a half per cent.*, and in that case *thirty-* 5  
*five years* shall be substituted for *twenty-two years* as the term  
during which such annuity shall be payable.

[10 Vict.  
c. 32, s. 37.] (2.) The annuity shall be paid by equal half-yearly payments on  
the *fifth of April and tenth of October* in each year, and the first  
of such payments shall be made on whichever of the said days next 10  
succeeds the day on which the said term of *twenty-two years* or  
*thirty-five years* (as the case may be) commences.

[40 & 41 Vict.  
c. 27, s. 7.] (3.) The Commissioners may charge interest on any such advance  
as aforesaid at the rate of *three and a half per cent.* per annum  
from the date of such advance until the commencement of the 15  
term for which the annuity charged for the repayment of such  
advance is payable ; and any interest so payable shall be added to  
and be deemed to be part of the advance for the repayment of which  
the said annuity is charged.

[See  
10 Vict.  
c. 32, s. 38.] (4.) The said annuity shall have priority over all existing and 20  
future estates, interests, and incumbrances, with the exception of  
quitrents and other charges incident to the tenure, rentcharges in  
lieu of tithes, and any charges created under any Act authorising  
any advance of public money, or under any Act creating charges  
in respect of improvements on lands, and passed before this Act, 25  
with the exception also (in cases where the lands are subject to a  
fee-farm rent, or held under a lease reserving rent) of such fee-  
farm rent or rent reserved as aforesaid.

[10 Vict.  
c. 32, s. 44.  
39 & 40 Vict.  
c. 40, s. 4.] (5.) The said annuity or any part thereof may at any time, at the  
option of the person for the time being liable to pay the same, be 30  
redeemed in the prescribed manner.

[10 Vict.  
c. 32, s. 43.] (6.) The owner for the time being of the land shall be the person  
liable to pay the annuity charged on such land.

[10 Vict.  
c. 32, s. 45.] (7.) The occupier of any land charged as aforesaid, not being the  
owner thereof, may pay any sum due upon such land on account 35  
of the annuity, and shall be authorised to deduct such sum from  
the rent payable by him to his immediate landlord, and the im-  
mediate landlord of any person making such deduction from his  
rent may, if he is not such owner as aforesaid, make the same  
deduction from the rent payable by him in respect of the same 40  
land : Provided that nothing herein contained shall authorise such

deduction to be made in respect of any costs or expenses incurred in consequence of the non-payment of an annuity. A.D. 1884.

(8.) The Commissioners, on the application, within the prescribed period, of the owner (not being the occupier) of any land charged with the payment of any such annuity, shall by order determine the annual sum (if any) to be paid by the occupier of such land to his immediate landlord by reason of the increased value thereof arising from any work executed in pursuance of this Part of this Act; and the Commissioners in fixing the said annual sum shall have regard to the nature of the said work, and the benefits arising therefrom to the occupier, and generally to the justice of the case; and any person to whom the said annual sum is payable, if he is not such owner as aforesaid, shall pay a like sum to his immediate landlord; and any such sum shall be paid and recoverable as part of the rent payable by the occupier and by any such person as aforesaid in respect of such land: [10 Vict.  
c. 32. s. 46.]

Provided that—

(a.) Before making an order for the payment of any such annual sum, the Commissioners shall give the prescribed notice to the occupier of the land for the purpose of enabling such occupier to appear before them and make any reasonable objection to such order, and shall duly consider any such objection made to them at the time appointed for that purpose by the said notice; and

(b.) The Commissioners shall not make an order for the payment of any such annual sum in the case of any land in respect of which a statutory term within the meaning of the Land Law (Ireland) Act, 1881, is subsisting, unless they are satisfied that the increased value of such land arising or anticipated from the said work was not taken into account in the determination of the rent payable in respect of such land during the said statutory term; but the order, when made, shall have effect notwithstanding the subsistence of such statutory term; and [44 & 45 Vict.  
c. 49.]

(c.) An annual sum, payable as aforesaid, shall not be deemed an increase of rent for the purposes of the Land Law (Ireland) Act, 1881.

7. Every annuity for the repayment with interest of a loan made in pursuance of this Part of this Act shall be recoverable by the Commissioners in manner in which rentcharges in lieu of tithes are recoverable in Ireland; and a certificate under the common seal of the Commissioners shall, until the contrary is proved, be conclusive evidence that the amount of any annuity or arrears of annuity stated therein to be due under this Part of this Act from any person named therein is due to the Commissioners from such person. Recovery of  
annuity.  
[See  
32 & 34 Vict.  
c. 46. s. 49.]

A.D. 1884.

Annuity not  
to preclude  
trustees from  
investing  
money in  
land charged.  
[10 Vict.  
c. 32, s. 53.]

8. An annuity charged on any land for the repayment of a loan made by the Commissioners in pursuance of this Part of this Act shall not be deemed such an incumbrance as precludes a trustee of money from investing the same in a purchase or upon a mortgage of the land so charged, unless the terms of such trust expressly provide that the trust money shall not be so invested; and any trust moneys already invested, lent, or charged on any land which may become charged with such annuity may, if the trustee think fit, be continued on the security of the said land, notwithstanding the imposition of such annuity; and a guardian, committee, trustee, executor, or administrator shall not be obliged to signify an objection to any application or order affecting the said land made in pursuance of this Part of this Act, or be in anywise responsible for the consequence of such application or order, or the charge made in pursuance thereof.

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Power to  
modify work,  
and make  
further loan.  
[See 10 Vict.  
c. 32, s. 30.  
12 & 13 Vict.  
c. 39, s. 4.]

9.—(1.) Where the Commissioners have made a loan for the improvement of any land, they may, if they think it expedient so to do, in the prescribed manner and on the application of the owner of such land, sanction any alteration or modification of any plan, specification, or estimate approved by them relating to any work for such improvement, and substitute any new plan, specification, or estimate for any plan, specification, or estimate formerly approved by them.

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(2.) Where the Commissioners sanction any alteration or modification of any work for the improvement of land for which they have made a loan, and it appears to them that in consequence of such alteration or modification it is expedient to make a further loan for the improvement of such land, they may on the application of the owner, and with the consent of the Treasury, make a further loan not exceeding one-fifth part of the original loan; and the order of the Commissioners directing any such further loan shall be sufficient, without any such other proceedings as are herein-before directed with respect to the original loan, and a duplicate thereof shall be registered in like manner as a duplicate of the original order is required to be registered; and the order directing such further loan shall have the same effect as such original order; and the lands therein specified shall thereupon become charged with an annuity to the Commissioners for the repayment with interest of all sums from time to time advanced on account of such further loan; and all rights, remedies, and proceedings respecting the advance and repayment of a loan made in pursuance of such further order, and otherwise in respect of such loan and annuity, shall be the same as

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in the case of a loan and annuity made and charged in pursuance of an original order. A.D. 1884.

10. Where the Commissioners, having made a loan for the improvement of any land, are of opinion that a sufficient improvement in such land can be carried out at a reduced expenditure, they may, for the purpose of effecting such reduction of expenditure, alter any plan, specification, and estimate originally approved by them, and they may also withhold any instalment or part of the loan originally agreed to be made for the proposed work to an extent corresponding in their judgment with the reduced expenditure.

Power to reduce expenditure and withhold part of loan.  
[10 Vict. c. 32. s. 31.]

- 11.—(1.) Any owner of land, upon receiving any part of a loan from the Commissioners in pursuance of this Part of this Act, or (with the sanction of the Commissioners) before receiving any part of such loan, may by himself, his engineers, agents, and workmen, from time to time enter upon any lands for the improvement of which such loan was agreed to be made, making compensation to any person entitled thereto for any injury done or caused by such entry, and execute any work for the improvement of the said lands which is authorised by an order of the Commissioners or is in accordance with any plan or specification for the time being approved by them, and do all such acts and things as may be necessary to keep the said work, when executed, in repair, so long as the said lands or any part thereof continue charged with an annuity for the repayment of the said loan, notwithstanding that any other person or persons may have any other estate or interest in the same lands:

Power to owner to enter on lands and carry out works.  
[10 Vict. c. 32. ss. 35, 34.]

- (2.) In default of agreement as to the amount of such compensation, proceedings may be taken in a summary manner for ascertaining the amount thereof, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of the amount of such compensation, and the said order shall be final and conclusive:

- Provided that the said owner and any person authorised by him may exercise any of the powers conferred by this section previously to or pending the decision of any question as to such compensation.

- 12.—(1.) If default is made in the due application of a loan or of any instalment of a loan made by the Commissioners in pursuance of this Part of this Act, or if the person for the time being bound to execute any work for which any such loan has been made or agreed to be made omits or neglects so to do, the Commissioners may, if they think fit, with the consent of the Treasury enter upon

Power to Commissioners to complete works in case of default.  
[10 Vict. c. 32. ss. 33, 34.]

A.D. 1894. such land, and proceed to complete the necessary work, and shall for that purpose have all the powers exercisable by such person.

(2.) All expenses incurred by the Commissioners for the completion of the said work shall be deemed to be part of the loan agreed to be made by them, and they may by order fix the date from which 5 any annuity in respect of any payment made by them after having so entered is to be computed, and the day whereon the first payment thereof is to be made.

(3.) In any case in which the Commissioners have entered upon any lands as in this section mentioned, if the residue of the loan 10 originally agreed to be made by the Commissioners is not, in their judgment, sufficient to complete the work, they may, with the sanction of the Treasury, expend such further sum as they may think beneficial to all persons interested in the land, and necessary to make any work commenced effective for the improvement of 15 the land; and a duplicate of the order of the Commissioners directing any such further expenditure shall be registered in like manner, and shall have the same effect, as a duplicate of an order directing a loan in pursuance of this Part of this Act; and the lands 20 therein specified shall, from the date of such registry, become charged with an annuity to the Commissioners for the repayment with interest of any expenditure incurred in pursuance of such order; and all rights, remedies, and proceedings respecting the advance and repayment of a loan for the improvement of land, and 25 otherwise in respect of such loan, and the security therefor, shall be applicable in the case of such expenditure.

Works to be  
maintained.  
[10 Vict.  
c. 32, s. 54.]

13. So long as any land continues charged with any annuity for the repayment of any loan made or expenses incurred by the Commissioners in pursuance of this Part of this Act, the person for the time being bound to pay such annuity shall be bound to 30 maintain in good order any work on account of which the land has been so charged, and, in default of so maintaining any such work, shall be liable to an action for the damage occasioned by such default, at the suit of the person then entitled to the next estate in remainder or reversion in the said land. 35

Power to  
Commissioners to  
summon wit-  
nesses.  
[10 Vict.  
c. 32, s. 56.]

14.—(1.) For the purpose of any inquiry or proceeding made or taken by the Commissioners, or any one of them, in pursuance of this Part of this Act, the Commissioners may by summons under their common seal require the attendance before them, or one of them, of any person whose evidence they may deem requisite, and they or 40 one of them may examine such person on oath or otherwise, and such person shall be allowed the reasonable charges of his attendance; and



the Commissioners may also for the like purpose and by a like summons require any person to produce any document in his possession or control relating to any matter connected with such inquiry or proceeding.

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- 5 (2.) Any person who, after the delivery to him of such summons as aforesaid, or of a copy thereof, refuses or wilfully neglects to appear before the Commissioners or one of them, or to answer upon oath or otherwise, as may be required of him, such questions as are put to him by the Commissioners or one of them respecting any matter  
10 connected with any such inquiry or proceeding, or to produce any such document in compliance with such summons, shall be liable to a penalty not exceeding *five pounds*, to be recovered in a summary manner, and the decision of the court before whom any proceedings for the recovery of such penalty are taken shall be final; provided  
15 that a person shall not be required to attend in obedience to any such summons unless the reasonable charges of his attendance have previously been paid or tendered to him.

15. Nothing in this Part of this Act shall be taken to authorise any person to execute any work below the high-water mark of the  
20 sea or of any tidal waters without the consent of the Board of Trade signified in writing signed by one of their secretaries or assistant secretaries, or to execute any work on any other land belonging to Her Majesty in right of Her Crown without the consent in writing of the Commissioners of Her Majesty's Woods, Forests, and Land  
25 Revenues; and the Commissioners shall not make any loan to any person for any such work as is mentioned in this section without obtaining such consent as herein-before mentioned.

Saving of  
rights of  
Crown and  
Board of  
Trade.  
[10 Vict.  
c. 82, s. 66.]

16. The following Acts; that is to say,  
(1.) The National School Teachers' Residence. (Ireland) Act, 1875,  
30 and any enactments amending the same; and  
(2.) The Dispensary Houses (Ireland) Act, 1879,  
shall be incorporated with this Part of this Act, save so far as the provisions of those Acts may be inconsistent with the provisions of this Part of this Act or any of them.

Acts incor-  
porated.  
38 & 39 Vict.  
c. 82.  
42 & 43 Vict.  
c. 25.

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## PART II.

## ARTERIAL DRAINAGE.

*Formation of Drainage District.*

Application  
to Commis-  
sioners to  
form drain-  
age district.  
[26 & 27 Viet.  
c. 88, ss. 4, 6.]

17.—(1.) Any person or persons interested in any land which is  
liable to be flooded or injured by water, or in any land whereof the  
drainage is capable of being improved, may make application to the  
Commissioners for the formation of a drainage district and the  
execution in such district of works for arterial drainage.

(2.) Such application shall be made by petition describing and  
setting forth, by reference to a map and by plans and sections, the  
proposed boundaries of the district and the works for arterial drain-  
age proposed to be carried out in such district, with the probable  
expense of such works; the petition shall be signed by the petition-  
ers, and shall be accompanied by a schedule showing the names of  
the reputed owners and occupiers of the lands comprised in the  
district or likely to be affected by the proposed works, and the  
annual value of the land belonging to such owners respectively,  
and the estimated increase in such value to result from the pro-  
posed works, and shall contain such further particulars and be  
supported by such evidence as may be prescribed or required by the  
Commissioners.

(3.) If the Commissioners signify their intention to entertain the  
application, the petitioners shall cause copies to be made of such  
petition, map, plans, sections, and schedule, and shall cause such  
copies to be deposited at some convenient place or places within or  
in the neighbourhood of the proposed district; and such copies  
shall there remain open to public inspection at all reasonable times  
for a period of not less than three successive weeks, and all persons  
shall be at liberty to make copies thereof or extracts therefrom.

(4.) Notice of the place or places where such copies are deposited  
shall be given and published by the petitioners in the prescribed man-  
ner, and by such notice all persons interested and having any objec-  
tions to the said petition or schedule or in respect of any matter  
relating to the proposed works shall be required to appear and make  
such objections at a time and place appointed in the same notice, or  
in a subsequent notice published in the prescribed manner, before an  
inspector to be sent by the Commissioners, such appointed time  
being not less than six weeks from the publication of the first-  
mentioned notice.

[41 & 42 Viet.  
c. 59, s. 3.]

Inquiry and  
report by  
inspector.

18.—(1.) If the Commissioners think it expedient to entertain the  
application, they may, after taking such security as they think fit

from the petitioners for the payment of the expenses of the application and the proceedings consequent thereon, send an inspector to the proposed district, and such inspector shall make all necessary investigations with respect to the propriety of constituting such district, and also with respect to the area of land to be comprised therein, and shall at the time and place appointed for the making of objections hold an inquiry, and inquire into the petition and as to the correctness of the schedule accompanying the same, and shall hear all such objections as aforesaid made by any persons interested or other persons on their behalf; the person so sent as inspector shall in no case be the same person who may have previously reported for the petitioners, nor shall the person so sent by the Commissioners be afterwards in any way employed in the execution of any of the works in the district.

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[26&27 Vict.  
c. 88. s. 6.]

(2.) For the purpose of such inquiry the inspector shall have all the powers for compelling the attendance of witnesses and examining them on oath or otherwise, and for taking affidavits and declarations, and requiring the production of documents, as are exercisable by the Commissioners for the purpose of any inquiry or proceeding by them under Part I. of this Act. Where such powers are exercisable by the Commissioners by summons under their common seal, they may be exercised by the inspector by summons under his hand, and any wilful neglect or refusal to comply with such summons or any of the requirements thereof shall be attended with the same consequences as a wilful neglect or refusal to comply with a like summons under the common seal of the Commissioners.

[27&28 Vict.  
c. 72. s. 2.]

(3.) The inspector, after having considered all such objections as aforesaid, shall make a report in writing of the result of his investigations and inquiry, and shall cause such alterations (if any) as he thinks expedient to be made in the said petition and schedule and in the map, plans, and sections describing and setting forth the proposed boundaries of the district, and the works for arterial drainage proposed to be carried out therein, and shall sign the same and deliver them, together with his report, to the Commissioners, and copies of all the said documents shall be deposited by the petitioners with the clerk of the peace of each county wherein any part of the works are proposed to be executed, and shall be open to public inspection at all reasonable times on payment of a fee of one shilling.

(4.) The petitioners shall also lodge a copy of the report with the clerk of each union in which any part of the works are proposed to be executed, and shall give public notice in the prescribed

A.D. 1884. manner of such report having been so lodged, and shall also in  
[37 & 38 Vict.  
c. 82. s. 4.] the prescribed manner serve notice of such report having been so  
lodged on each of the reputed owners of land in the proposed  
district.

[41 & 42 Vict.  
c. 59. s. 3.  
27 & 28 Vict.  
c. 72. s. 2.] (5.) Objections to the report or any part thereof may at any time 5  
within *three weeks* from the time when copies thereof were so  
lodged as aforesaid be sent to the Commissioners, in the prescribed  
manner, by or on the part of any owner of land in the proposed  
district, or any person interested in any land in such district.

Constitution  
of district.  
[26 & 27 Vict.  
c. 88. ss. 4,  
7, 11, 13  
41 & 42 Vict.  
c. 59. s. 4.] 19.—(1.) The Commissioners, after having considered all such 10  
objections (if any) as are made to them in the prescribed manner  
within the period limited for making the same, may, if satisfied  
with the propriety of constituting a drainage district, and that the  
owners of *one half* in value of the land in the proposed district  
are in favour thereof, and have subsequently to the report of the 15  
inspector by themselves or their authorised agents assented thereto  
in writing, make a provisional order constituting the area men-  
tioned in the petition or report, with such alterations of boundaries  
(if any) as they think fit, a drainage district, and such provisional  
order shall also specify the following matters:— 20

(a.) The lands authorised to be purchased for the proposed  
works, subject to such alterations and deviations therefrom as  
the Commissioners may thereafter sanction; and

(b.) The nature and extent of the proposed works for arterial  
drainage as authorised by the Commissioners; and 25

(c.) The time within which the said works are required to be  
completed; and

(d.) The number of members of which the drainage board to be  
constituted as herein-after mentioned is to consist, and the  
name of such board and the names of the first members thereof, 30  
the mode of summoning the first meeting of the board, the  
qualification of subsequent members of the board, and the  
time at which the first members of the board are to vacate  
their offices, such time not being later than the end of the  
month of *September* in the year following that in which such 35  
order is made; and

(e.) Such other matters as the Commissioners think proper:

[41 & 42 Vict.  
c. 59. s. 4.] Provided that a provisional order shall not be made under this  
section in any case in which the owners of *one third* in value of  
the lands in the said district have, within *six weeks* after the 40

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lodging of the report of the inspector, expressed in writing their dissent to the formation of the drainage district; but when any portion of such lands appears to have no owner, or the owner cannot be found, such portion shall be altogether excluded in any computation that may be made of the proportion borne by the dissenting owners to the aggregate value of such land :

Provided also, that a provisional order shall not be made authorising a drainage board to remove or injuriously interfere with any millrace, milldam, weir, or other like obstruction, whereby the level of water is raised for milling or other purpose of profit, unless upon the report of their inspector they are satisfied that any injury that may be caused thereby is of a nature to admit of being fully compensated for by money.

(2.) Notice of the provisional order shall be published by the petitioners in the "Dublin Gazette," and in some newspaper circulating in the district to which it relates, and copies thereof shall be served in the prescribed manner upon the prescribed persons.

(3.) The making of such order shall be conclusive evidence that all the requirements of this Part of this Act in respect of proceedings required to be taken previously to the making of such order have been complied with.

20.—(1.) A provisional order constituting a drainage district shall have no effect until it has been sanctioned by Parliament, and for the purpose of obtaining such sanction it shall be the duty of the Commissioners, as soon as conveniently may be, to cause a copy of the said order to be laid on the table of both Houses of Parliament; and at any time within *thirty days* from the day on which the said order is so laid before Parliament either House of Parliament may pass a resolution, either to the effect that the order shall be referred to a joint committee of both Houses, or to the effect that the order ought not to be sanctioned by Parliament.

Sanction of  
Parliament  
to order  
constituting  
drainage  
district.

(2.) If within the said *thirty days* a resolution is passed by either House that the order ought not to be sanctioned by Parliament, no further proceeding shall be had thereon, and if a resolution is passed by a joint committee to which the order is referred, to the effect that the order ought not to be sanctioned by Parliament, no further proceeding shall be had thereon.

(3.) If a resolution is passed by such joint committee that the order ought to be sanctioned by Parliament, such resolution shall be laid on the table of both Houses of Parliament, and if within *thirty days* from the day on which such resolution is so laid before Parliament it is disapproved of by resolution of either House of

A D. 1884. Parliament, no further proceeding shall be had on the order which is the subject of such resolution.

(4.) If within thirty days after the laying before Parliament as aforesaid of the said order, or (in case the said order was referred to a joint committee of both Houses) of a resolution of such joint committee that the order ought to be sanctioned by Parliament, no such resolution as is in this section mentioned is passed by either House of Parliament, the said order shall, at the expiration of such thirty days, be deemed to be sanctioned by Parliament.

(5.) At the proper time the Clerk of the Parliaments shall state by endorsement or otherwise, under his hand, on every order which has lain before the two Houses of Parliament in pursuance of this section, whether it has or has not been sanctioned by Parliament, and the date at which it was sanctioned by Parliament or failed to be so sanctioned, and such statement of the Clerk of the Parliaments that an order has or has not been sanctioned by Parliament shall be conclusive evidence of the fact.

(6.) Where an order has been sanctioned by Parliament, it shall, on and after the day on which it is stated by the Clerk of the Parliaments to have been so sanctioned, have the same effect as if it were a Public Act of Parliament to which the assent of Her Majesty had been given on the stated day.

(7.) An authentic copy of every order sanctioned by Parliament under this section shall be preserved in the House of Lords amongst the records of that House, but any copy of an order sanctioned by Parliament under this Act purporting to be printed by the Queen's Printers shall be admissible in evidence.

Alteration of  
works and  
extension of  
time.  
[26&27 Viet.  
c. 88. ss. 6,  
8.]

21. The Commissioners may from time to time in the prescribed manner sanction any alterations which they may think proper in any works for arterial drainage authorised by their order constituting a drainage district; and, upon sufficient ground being laid before them, they may in the prescribed manner extend the time limited by their order for the completion of any works for arterial drainage to such further period not exceeding *three years* after the time originally limited as seems proper to them, and sanction the purchase of such additional land as may from time to time appear necessary for the execution of the proposed works.

#### *Constitution, Powers, and Duties of Drainage Boards.*

Constitution  
of drainage  
board.

22.—(1.) After the constitution of a drainage district the execution of the works for arterial drainage authorised by the Commis-

sioners to be executed in the said district shall be vested in a drainage board, to be called by the name specified in the order constituting such district, and such board shall be a body corporate, with perpetual succession and a common seal, having capacity to hold 5 lands for all the purposes of their constitution.

A.D. 1894.  
[26 & 27 Vict.  
c. 88, s. 12.]

(2.) From and after the date of the confirmation of a provisional order constituting a drainage district, or any later date specified in the said order, the drainage board shall be deemed to be duly constituted, and shall consist of the members nominated in that 10 behalf in the provisional order; and such members shall vacate their offices at the time specified in the said order.

23. Subject to any provisions contained in the provisional order constituting a drainage district, the following regulations with respect to the drainage board shall have effect, that is to say:—

Regulations  
for drainage  
board.  
[26 & 27 Vict.  
c. 88, ss. 13,  
16.]

15 (1.) The offices of vacating members shall be filled up by an equal number of qualified persons to be elected in manner provided in the First Schedule to this Act:

(2.) All members elected in manner provided in the said Schedule shall vacate their offices on the *first Thursday in September* in the year succeeding that in which they were elected, or on such 20 other day in *September* as may be directed by the board:

(3.) Every member going out of office shall be re-eligible; and if at any time when an election of members ought to take place the places of any retiring members are not filled up, the 25 retiring members whose places are not filled up shall continue in office for the succeeding year:

(4.) Any casual vacancy occurring in the board may be filled up by the board; but any person so chosen shall retain his office so long only as the vacating member would have retained the 30 same if such vacancy had not occurred:

(5.) During any vacancy in the board the continuing members shall act as if such vacancy had not occurred:

(6.) Any person who acts as member of a drainage board without being qualified as required by the order of the Commissioners shall incur a penalty not exceeding *fifty pounds*; and in any 35 proceeding for the recovery of such penalty the burden of proving qualification shall be upon the person against whom such proceeding is taken:

(7.) The board may delegate any of their powers to committees, consisting of such member or members of their body as they 40 think fit; and any committee so formed shall, in the exercise of

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the powers delegated, conform to any regulations that may be imposed on them by the board :

- (8.) All acts done by any meeting of the board, or by any committee thereof, or by any person acting as a member thereof, shall, notwithstanding that it may be afterwards discovered 5 that there was some defect in the appointment of the board or of such committee thereof or person acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member: 10
- (9.) The proceedings of the board and of committees thereof shall be conducted in accordance with the rules contained in the First Schedule to this Act.

Qualification  
of electors.  
[26 & 27 Vict.  
c. 88, s. 14.]

24. Subject to any provisions to the contrary contained in the provisional order constituting a drainage district, the following 15 rules shall be observed with respect to the electors of members of the drainage board, that is to say :—

- (1.) The electors shall be the owners of lands within the drainage district for which the election is held ;
- (2.) Each elector shall be entitled to vote according to the scale 20 set forth in the First Schedule to this Act.

Certain provisions of  
10 & 11 Vict.  
c. 16, incor-  
porated.  
[26 & 27 Vict.  
c. 88, s. 17.]

25. The provisions of the Commissioners Clauses Act, 1847, with respect to—

- (1.) The contracts to be entered into and the deeds to be executed by the Commissioners; and 25
- (2.) The liabilities of the Commissioners, and legal proceedings by or against the Commissioners; and
- (3.) The appointment and accountability of the officers of the Commissioners; and
- (4.) The accounts to be kept by the Commissioners; and 30
- (5.) The giving of notices and orders,

shall be incorporated with this Part of this Act; and in the construction of this Part of this Act and the said incorporated provisions, this Part of this Act and the order constituting a drainage district shall together constitute the " Special Act "; and the drainage 35 board shall be " the Commissioners."

Drainage  
board to pur-  
chase land  
and execute  
works.  
[26 & 27 Vict.  
c. 88, ss. 18,  
19.]

26. A drainage board shall have power to execute, and when executed to maintain and repair, all works for arterial drainage authorised in pursuance of the order constituting their district, with such alterations as may from time to time be sanctioned 40 by the Commissioners; and for that purpose the drainage board may contract for and purchase any lands, including any



estate, interest, or easement therein, which are authorised by the said order or sanctioned in the prescribed manner by the Commissioners to be purchased, and may employ such contractors, surveyors, agents, and workmen as they think fit, and may, by themselves and  
 5 such contractors, surveyors, agents, and workmen enter upon any land whatsoever and proceed with any works upon such land which they are authorised to execute, and do all such things upon and affecting any land (whether within or without the drainage district) as are necessary or proper for the execution of such works, and for  
 10 the accommodation of lands adjoining such works, and are sanctioned by the Commissioners, making compensation to all persons for any damage occasioned to them by the exercise of such powers.

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27. The works which a drainage board may execute outside the limits of their district shall include any works which the Commissioners at any time, whether before or after the completion of the works within the district, certify to be, in their opinion, necessary  
 15 for preventing injury to lands outside the limits of the district by reason of the drainage works executed or to be executed by the drainage board within the district :

Provision  
with respect  
to works  
outside dis-  
trict.  
[43 & 44 Vict.  
c. 27. s. 2.]

20 Provided that a drainage board in the exercise of any powers conferred by this section—

(a.) shall not acquire any lands otherwise than by agreement, and

(b.) shall not execute any works within the limits of the district  
 25 of any other drainage board without the consent of that board, unless authorised by a provisional order made by the Commissioners and sanctioned by Parliament ; and the Commissioners before making any such order shall cause notice of their intention to make the same and of the subject matter thereof to be published in such  
 30 manner as they think best adapted for the purpose of making it known to all persons interested, and shall bear and consider any objections to such order which may be made to them in the prescribed manner within such time, being not less than *three*  
 35 weeks from the first publication of the said notice, as they may by the said notice specify. After hearing the said objections (if any), the Commissioners may, if they think proper, make such provisional order as aforesaid, and publish the same in the prescribed manner, and the provisions of this Act relating to the sanction of Parliament to and the validity of a provisional order constituting a drainage  
 40 district shall apply in the case of a provisional order made in pursuance of this section.

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Regulations  
as to pur-  
chase of  
lands.[CY. 26 & 27  
VICT. c. 88,  
ss. 31, 31.]

28. For the purpose of the purchase of any land, and any estate, interest, or easement therein, by a drainage board in pursuance of this Part of this Act, or of ascertaining the amount of compensation to be paid for any damage occasioned by the execution of any works for arterial drainage, or of determining any claim in respect of accommodation works, the Lands Clauses Consolidation (Ireland) Acts shall be incorporated with this Part of this Act so far as the same may be applicable to and are not inconsistent with or modified by the provisions of this Part of this Act, and with the exceptions and subject to the provisions following; that is to say, 5 10

[8 & 9 VICT.  
c. 38.]

(1.) There shall not be incorporated with this Part of this Act the following provisions and sections of the Lands Clauses Consolidation Act, 1845:

(a.) Section sixteen, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; and section seventeen, whereby it is provided that the certificate of the justices shall be evidence that the capital has been subscribed; and 15

(b.) The provisions with respect to the sale of superfluous land; and 20

(c.) The provisions with respect to access to the special Act:

(2.) Where the amount of any purchase money or compensation claimed in respect of any land required by the drainage board, or in respect of any damage occasioned by the exercise of any powers for the execution of the works for arterial drainage authorised to be executed by the drainage board, does not exceed *fifty pounds*, proceedings may be taken in a summary manner either by the drainage board or by any person claiming such purchase money or compensation for ascertaining the amount thereof to be paid by the drainage board, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of such amount by the drainage board to the person entitled thereto: 25 30

(3.) In the construction of this Part of this Act and the said incorporated Acts this Part of this Act and the order constituting the drainage district shall together constitute "the special Act," and the drainage board shall be "the promoters of the undertaking" or "the company." 35

In this section the term "the Lands Clauses Consolidation (Ireland) Acts" means the Lands Clauses Consolidation Act, 1845, as amended by the Lands Clauses Consolidation Acts Amendment Act, 40

8 & 9 VICT. c. 38,  
ss. 31 & 32;  
c. 39,  
ss. 1 & 2; 30 VICT. c. 30,  
ss. 1 & 2; 31 VICT. c. 37,  
ss. 1 & 2; 32 VICT. c. 31,  
ss. 1 & 2; 33 VICT. c. 30.

1860; the Railways Act (Ireland), 1851; the Railways Act (Ireland), 1860; the Railways Act (Ireland), 1864; and the Railways Traverse Act.

A.D. 1864.

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29. A drainage board may from time to time for such consideration as they may think proper, and with the consent of the Commissioners, sell and convey any of the lands which they may have acquired under this Part of this Act, and which may be no longer required by such board:

*Sale of land  
not required.  
[36 & 37 Vict.  
c. 88, s. 59.]*

- Provided that the said drainage board, before they sell or dispose of any such land as aforesaid, shall first offer the same to the person to whose estate the same originally belonged, and then to the person whose estate adjoins thereto, and such land shall not be sold to any other person at the same price as the persons entitled to such preference are willing to give, or at any lower price.

- 30.—(1.) During the execution of any works for arterial drainage the Commissioners may, if they think fit, upon the application of any person who is interested in the execution of such works, appoint a duly qualified person to proceed to the drainage district in which such works are being executed, to inspect such works and report to the Commissioners respecting the same.

*Enforcement  
of execution  
of works by  
drainage  
board.  
[26 & 27 Vict.  
c. 88, s. 64.]*

- (2.) Upon receiving the said report, the Commissioners may make such order respecting the execution, alteration, or modification of such works as they deem requisite, and may send such order to the drainage board, and the drainage board shall proceed with the execution, alteration, or modification of the works in accordance with the said order.

- (3.) If any drainage board wilfully neglects or refuses to comply with any such order as aforesaid, the Commissioners may apply by summary petition to the High Court, and thereupon such court may make such order thereon as seems just, and may issue any writ or writs of injunction to enforce any such order, and shall have power to adjudge by whom the costs of any such proceedings shall be borne.

#### *Expenses of Works.*

- 31.—(1.) A drainage board may from time to time borrow from any person willing to advance the same any sum required for defraying any of the expenses incurred or to be incurred by them in relation to any works for arterial drainage which they are authorised to execute in pursuance of this Part of this Act.

*Power to  
drainage  
board to  
borrow.  
[36 & 37 Vict.  
c. 88, s. 33.]*

- (2.) The repayment of any sum so borrowed (including any interest thereon agreed to be paid from the date of the advance thereof,

[166.]

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until the date of the enrolment of the apportionment of expenses award as hereafter in this Part of this Act mentioned,) shall be secured to the lender, in such manner as may be agreed between the parties, upon the moneys accruing to the drainage board in pursuance of the said award, together with interest at a rate not exceeding *five per cent.* per annum from the date of the enrolment of the said award.

Power to  
apply to  
Commissioners for  
loan.  
[30 & 37 Vict.  
c. 38, ss. 36-  
38.  
38 & 39 Vict.  
c. 52, s. 5]

32.—(1.) A drainage board may make application in writing to the Commissioners for a loan in aid of any works for arterial drainage which such board are authorised to execute, and such application shall contain such particulars as may be prescribed or required by the Commissioners. 10

(2.) The Commissioners may thereupon cause an inquiry to be made into all the circumstances of the case, and, if after such inquiry they think fit, they may, with the consent of the Treasury, make a loan to such drainage board in aid of the said works, and for defraying any expenses which the Commissioners may think properly connected therewith. 15

(3.) Any such loan shall be advanced by instalments, and a second or subsequent instalment shall not be advanced until the Commissioners are satisfied that the preceding instalment has been duly applied to the works for which the loan was made. 20

Award by  
Commissioners ap-  
portioning  
expenses.  
[26 & 27 Vict.  
c. 38, s. 39.]

33.—(1.) As soon as conveniently may be after any works for arterial drainage have been completed, or, if the Commissioners think fit, on the expiration of the period limited by the Commissioners for the completion of such works, though the same may not have been fully completed, the Commissioners shall make an award (in this Act referred to as "an apportionment of expenses award") specifying— 25

- (a.) The works executed or to be executed, and the lands within the district which have been drained or otherwise benefited by the said works; and
- (b.) The reputed owners of such lands, and the portions thereof belonging to such owners respectively; and
- (c.) The value of the said lands before the execution of the said works, and their value as increased by those works; and
- (d.) The total amount of the expenses of and incidental to the said works, including all expenses incurred by the Commissioners and any arbitrators and other persons appointed or employed by them in relation to any proceedings connected with the said works; and 40

[s. 39.]

(e.) The proportions in which the several portions of the said lands shall be charged for the payment (together with interest from the date of the enrolment of the award as herein-after mentioned until the time of payment) of the said expenses, deducting therefrom any amount payable to the Commissioners in pursuance of a repayment of public advances award as hereafter in this Part of this Act mentioned; and

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(f.) The whole amount of the sum (after making such deduction as aforesaid) chargeable according to the said proportion on each portion of the said lands; and

(g.) The rate of interest (not exceeding five per cent. per annum) to be paid on the amount so charged, and the mode of paying such amount and interest, whether at once or by instalments, and if by instalments the amounts and times for payment of such instalments; and

[s. 44.]

(h.) The proportions in which the several portions of the said lands, and the owners thereof, shall be annually charged towards the expenses which may from time to time be incurred in or about the maintenance and repair of the said works; and

(i.) The rate (according to such proportions as last aforesaid) payable towards such expenses as last aforesaid for the year next ensuing the date of the award; and

(j.) All such other matters as the Commissioners may think necessary or proper.

(2.) In such award regard shall be had to the degree of benefit conferred or expected to be conferred by the said works on each portion of the said lands, and to the circumstances of each case; and the Commissioners may appropriate to the owner of any portion of the said lands having advanced money for the said works (if in their opinion it is practicable so to do) a portion of the entire charge proportionate to the sum so advanced by such owner, and to declare such owner to be entitled, in respect of such portion, to a specified charge affecting only certain specified portions of the said lands, or to declare any two or more owners so advancing moneys as aforesaid to be jointly entitled in such shares as the Commissioners may think fit to any distinct proportionate part of the sum or sums so to be charged on any distinct portion of the said lands.

34. With respect to the making of an apportionment of expenses award, the following proceedings shall take place; that is to say,

(1.) The Commissioners shall draw up or cause to be drawn up a draft award;

Proceedings  
with respect  
to award.  
[26 & 27 Vict.  
c. 88. ss. 39,  
40, 42, 43.]

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- (2.) The Commissioners shall within *one month* after the making of the draft award cause the same to be printed and sold publicly at a price not exceeding *two shillings and sixpence* for each copy, and deposit a copy with the clerk of the peace of every county in which any part of the said works have been executed, and all persons shall be entitled to inspect the same on payment of *sixpence* ;
- (3.) When the draft award has been so deposited, the Commissioners shall cause notice thereof to be inserted once in each week for *three* successive weeks in some newspaper or newspapers circulating in the drainage district ; and the Commissioners shall by such notice require all persons who may desire to lodge objections to the said award to lodge the same at such place and before such time as may be specified in the said notice, and shall also in the said notice state that they will proceed to hear any objections which may be lodged in the prescribed manner, and to settle the award, at such time and place in or near such district as may be appointed in the said notice, such time not to be sooner than *one month* after the first publication of such notice ;
- (4.) The Commissioners or any one of them shall attend at the appointed time and place, and examine into any objection lodged against the draft award, and shall hear all such proper evidence as is offered to them or him in respect thereof, and shall make such alterations (if any) in the draft award as they or he think fit, and may adjourn such attendance from time to time ; and the Commissioners shall thereupon finally settle and seal the award ;
- (5.) The award, as finally settled by the Commissioners, shall be enrolled in the Rolls Office of the High Court, and when so finally settled and enrolled shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of the Rolls Office shall be evidence that it was duly made, and that all the requisitions of the law in relation thereto were complied with ; and the drainage board shall within *one month* after the award is finally settled cause the same to be printed and kept for public sale at a price not exceeding *two shillings and sixpence* for each copy.

Charge on  
lands of  
optional  
expenses.

35.—(1.) The several sums of money specified in an apportionment of expenses award as chargeable on the several portions of the lands therein specified, together with interest at such rate, not

exceeding *five* per cent. per annum, as may have been fixed by the said award, shall, from the date of the enrolment of the said award, be charged on the said portions respectively, in accordance with the terms of the said award; and the owner for the time being of any

- 5 such portion shall be the person liable to pay any amount for the time being due in respect of the sum so charged upon such portion.
- (2.) The said charges shall have priority over all existing and future estates, interests, and incumbrances, with the exception of quit-rents and other charges incident to the tenure, rentcharges in
- 10 lieu of tithes, and any charges created under any Act authorising any advance of public money, or under any Act creating charges in respect of improvements on lands, and passed before this Act, with the exception also (in cases where the lands are subject to a fee-
- 15 farm rent or held under a contract of tenancy reserving rent) of such fee-farm rent or rent reserved as aforesaid.

36. If any sum of money charged in pursuance of an apportionment of expenses award, or any instalment thereof, or any interest thereon, remains unpaid for *three months* after the time when the same became due according to the terms of the award, the drainage
- 20 board may proceed for the recovery thereof by all or any of the methods following; that is to say,

- (1.) The drainage board, or any person authorised by them, may enter upon the land charged with the payment of the amount so in arrear, or any part of such land, and may receive and
- 25 take the rents and profits of such land (subject to any prior incumbrance), until thereby or otherwise the amount so in arrear (together with all costs and expenses attending or occasioned by such entry and receipt of the rents and profits of such land) is fully paid and satisfied;
- 30 (2.) Upon the application by petition of the drainage board the High Court may appoint a receiver of the rents and profits of such land, and the said receiver shall have full power to receive the same, and apply the same, after deduction of the necessary expenses of the application to the said court and of the order
- 35 and proceedings thereon, and without prejudice to any prior incumbrances or any remedy for the recovery of the same, in payment of the amount so in arrear as aforesaid, until the same is fully paid;
- (3.) The drainage board, if they think fit, may raise the amount
- 40 so in arrear as aforesaid, and all costs and expenses incidental to the raising of such amount, by mortgage of such land or a competent part thereof; and every such mortgage, and every receipt given for the consideration money, shall be valid and

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[26 & 27 Vict.  
c. 88. s. 44.]Provision in  
case of non-  
payment of  
charge.  
[26 & 27 Vict.  
c. 88. s. 45.]

A.D. 1884.

Award by  
Commissioners  
for loan  
advanced by  
them.  
[26 & 27 Vict.  
c. 88, s. 15.]

effectual to all intents and purposes whatsoever; and the mortgagee of any such mortgage shall not be bound to see to the application of the mortgage money, or to inquire whether the mortgage made by the drainage board and purporting to be made under or in pursuance of this Part of this Act is in fact by this Part of this Act authorised to be made by them.

37.—(1.) Where the Commissioners have made a loan to a drainage board in pursuance of this Part of this Act they may on the completion of the authorised works within the period limited by them, or in case the works are not completed within such period, then at such time as the Commissioners think proper, make an award (in this Act referred to as "a repayment of public advances award") specifying,

- (a.) The works for which such loan was made, and the lands drained or otherwise benefited by such works; and 15
- (b.) The reputed owners of the said lands and the portions thereof belonging to such owners respectively; and
- (c.) The amount of the said loan, including interest on every advance in respect thereof, at the rate of *four* per cent. per annum from the date of such advance until the commencement of the term for which the annuity for the repayment of the said loan is payable as herein-after mentioned, and including also any sums otherwise payable to the Commissioners in respect of expenses incurred in connexion with the constitution of the drainage district, or the execution 25 of the said works, or the making of the said loan; and
- (d.) The proportions in which the said lands and the owners thereof are to be charged with the repayment of the said amount, and the gross sum to be charged on the land of each owner in respect thereof; and 30
- (e.) All such other matters and things as the Commissioners may think necessary or proper.

(2.) In such award regard shall be had to the degree of benefit conferred or expected to be conferred upon each portion of the said lands by the said works, and to the circumstances of the case. 35

(3.) The same proceedings shall take place with respect to the making of a repayment of public advances award and the enrolment thereof as are herein-before directed in the case of an apportionment of expenses award, and from the date of such enrolment the several lands specified in that behalf in the award shall respectively be 40 charged, in manner herein-after provided, with an annuity for the payment with interest of the sums specified in the said award to be charged on such lands respectively:



Provided that where the moneys expended on any works for arterial drainage consist entirely of moneys lent for the purpose of such works by the Commissioners, the Commissioners shall not be obliged to make two separate awards, but may make a combined award, combining the several particulars required to be specified in the apportionment of expenses award and the repayment of public advances award respectively, and the same proceedings as aforesaid shall take place with respect to the making of such combined award and the enrolment thereof; and such combined award when enrolled shall be of the same effect with respect to the matters therein contained as an apportionment of expenses award and a repayment of public advances award.

38.—(1.) Any land charged for the payment with interest of any sum in pursuance of a repayment of public advances award shall be charged with the payment to the Commissioners of an annuity of *six and a half* per cent. on the sum so charged on such land; and such annuity shall be payable for the term of *twenty-two* years, commencing on the *fifth of April* or *tenth of October*, whichever of those days next preceded the enrolment of the award:

Provided that the Commissioners, if they think fit, may, with the consent of the Treasury, substitute an annuity of *five* per cent. for the said annuity of *six and a half* per cent., and in that case *thirty-five* years shall be substituted for *twenty-two* years as the term during which such annuity shall be payable.

(2.) The annuity shall be paid by equal half-yearly payments on the *fifth of April* and *tenth of October* in each year, and the first of such payments shall be made on whichever of the said days next succeeds the day on which the said term of *twenty-two* years or *thirty-five* years (as the case may be) commences.

(3.) The said annuity shall have priority over all existing and future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to the tenure, rentcharges in lieu of tithes, and any charges created under any Act authorising any advance of public money, or under any Act creating charges in respect of improvements on lands, and passed before this Act, with the exception also (in cases where the lands are subject to a fee-farm rent or held under a contract of tenancy reserving rent) of such fee-farm rent or rent reserved as aforesaid.

(4.) The said annuity or any part thereof may at any time, at the option of the person for the time being liable to pay the same, be redeemed in the prescribed manner.

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D

A.D. 1884.  
[32 & 35 Vict.  
c. 72, s. 2.]

Charge on  
lands for  
repayment  
of loan made  
by Com-  
missioners.  
[26 & 27 Vict.  
c. 58, ss. 47,  
48,  
52 & 53 Vict.  
c. 72, s. 4,  
57 & 58 Vict.  
c. 52, s. 2.]

[32 & 33 Vict.  
c. 72, s. 4.]

[10 Vict.  
c. 32, s. 44,  
29 & 30 Vict.  
c. 40, s. 4,  
26 & 27 Vict.  
c. 58, s. 51.]

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See 10 Vict.  
c. 32, s. 43;  
26 & 27 Vict.  
c. 88, s. 51.

Recovery of  
annuity pay-  
able to Com-  
missioners.

[See  
33 & 34 Vict.  
c. 46, s. 48.]

Determina-  
tion by Com-  
missioners of  
annual sum  
payable by  
occupier.

[See 26 & 27  
Vict. c. 88,  
s. 56.]

(5.) The owner for the time being of any land charged with such annuity shall be the person liable to pay the same.

39. Every annuity payable to the Commissioners in pursuance of this Part of this Act shall be recoverable by the Commissioners in manner in which rentcharges in lieu of tithes are recoverable 5 in Ireland; and a certificate under the common seal of the Commissioners shall, until the contrary is proved, be conclusive evidence that the amounts of any annuity or arrears of annuity stated therein to be due under this Part of this Act from any person named therein is due to the Commissioners from such person. 10

40. The Commissioners, on the application within the prescribed period of the owner (not being the occupier) of any land charged with the payment of any sum of money or annuity under an apportionment of expenses award or a repayment of public advances award, shall by order determine the annual sum (if any) to be paid 15 by the occupier of such land to his immediate landlord by reason of the increased value thereof arising from the works for arterial drainage in respect of which such award was made; and the Commissioners in fixing the said annual sum shall have regard to the nature of the said works, and the benefits arising therefrom to the 20 occupier, and generally to the justice of the case; and any person to whom the said annual sum is payable, if he is not such owner as aforesaid, shall pay a like sum to his immediate landlord; and any such sum shall be paid and recoverable as part of the rent payable by the occupier and by any such person as aforesaid in respect of 25 such land:

Provided that—

- (1.) Before making an order for the payment of any such annual sum, the Commissioners shall give the prescribed notice to the occupier of the land for the purpose of enabling such occupier to 30 appear before them and make any reasonable objection to such order, and shall duly consider any such objection made to them at the time appointed for that purpose by the said notice; and
- (2.) The Commissioners shall not make an order for the payment of any such annual sum in the case of any land in respect of 35 which a statutory term within the meaning of the Land Law (Ireland) Act, 1881, is subsisting unless they are satisfied that the increased value of such land arising or anticipated from the said works was not taken into account in the determination of the rent payable in respect of such land during the said 40 statutory term; but the order, when made, shall have effect notwithstanding the subsistence of such statutory term; and

44 & 45 Vict.  
c. 49.

- (3.) An annual sum payable as aforesaid shall not be deemed an increase of rent for the purposes of the Land Law (Ireland) Act, 1881. A.D. 1881.

41. A sum of money or annuity charged on any land, in pursuance  
5 of an apportionment of expenses award, or a repayment of public  
advances award, shall not be deemed such an incumbrance as pre-  
cludes a trustee of money from investing the same in a purchase or  
upon a mortgage of the land so charged, unless the terms of such trust  
expressly provide that the trust money shall not be so invested; and  
10 any trust moneys already invested, lent, or charged on any land which  
may become charged with such annuity may, if the trustee think  
fit, be continued on the security of the said land, notwithstanding  
the imposition of such annuity; and a guardian, committee, trustee,  
executor, or administrator shall not be obliged to signify an objec-  
15 tion to any application or award affecting the said land made in  
pursuance of this Part of this Act, or be in anywise responsible for  
the consequence of such application or award, or the charge made  
in pursuance thereof.

42. For the purpose of defraying all expenses connected with  
20 the execution outside the limits of a drainage district of any works  
certified by the Commissioners as in this Part of this Act mentioned  
to be in their opinion necessary for preventing injury to lands out-  
side the limits of such district by reason of any works for arterial  
drainage executed or to be executed within such district, the Com-  
25 missioners shall, upon the completion of the works so certified as  
aforesaid, or from time to time whenever they think fit, make an  
order charging the amount mentioned in such order upon the  
several lands in the said district; and the provisions of this Part of  
this Act relating to a charging order of the Commissioners for the  
30 payment of the expenses of any works of repair and maintenance  
executed by them in pursuance of this Part of this Act shall apply, so  
far as the same may be applicable, in like manner as if an order made  
in pursuance of this section were such charging order as aforesaid.

43. All moneys charged by virtue of this Part of this Act upon  
35 any lands shall be chargeable upon such other lands,  
being part of the same denomination or townland and belonging  
to the same owner or settled to the like uses, as may by the award  
of the Commissioners be made chargeable therewith, subject as to  
such last-mentioned lands to the full amount of all incumbrances  
40 affecting the same at the date of such award; and, subject as aforesaid,  
the said moneys shall be deemed to be charged upon such  
last-mentioned lands in the same priority and in like manner in all

Charge not to preclude trustees from investing money in land charged, (26 & 27 Vict. c. 88, s. 51. 10 Vict. c. 83, s. 5B.)

Provision as to expenses of works executed outside district. (43 & 44 Vict. c. 37, s. 3.)

Charge to extend to entire denomination of land. (26 & 27 Vict. c. 88, s. 49. 27 & 28 Vict. c. 72, s. 1.)

A.D. 1884. respects as the said moneys are chargeable upon the lands actually drained or otherwise benefited.

Release of a  
part of land  
charged.  
[36 & 37 Vict.  
c. 63, s. 48.]

44. A drainage board may from time to time, for such consideration as they may think proper, and with the consent of the Commissioners signified under their seal, release any part of any land 5 from the whole or any part of any charge payable to such board under this Part of this Act; and such release shall not affect the rights or remedies of such board as against the residue of the land, part of which has been so released, or in respect of the residue of any such charge. 10

Commissioners to fix  
contributions  
payable by  
mill owner.  
[26 & 27 Vict.  
c. 68, s. 80.]

45.—(1.) In case the owner of any mill or factory consents that any dam, weir, or watercourse, or other work or obstruction connected with such mill or factory be, for the purpose of any works for arterial drainage, altered or rebuilt, or that such mill or factory obtain by such works any increased water power, the Commissioners 15 may fix the amount of contribution to be paid by such owner for such alteration, rebuilding, or increase of water power, towards the repayment of the costs and expenses of the said works, and the rate to be paid in future for such increased water power.

(2) The drainage board shall have the like powers to recover the 20 contribution and rate so fixed as are given to them by this Part of this Act for the recovery of any rates or charges to be imposed by them under this Part of this Act.

#### *Maintenance of Works.*

Annual rate  
for maintenance  
of works.  
[36 & 37 Vict.  
c. 68, ss. 57,  
60.]

46.—(1.) For the purpose of effectually maintaining and keeping 25 in repair all works for arterial drainage executed in any drainage district in pursuance of this Part of this Act, and for the payment of all necessary expenses of and incidental to the maintenance and keeping in repair of such works, and of any expenses properly incurred from time to time under this Part of this Act by the 30 drainage board after the making of an apportionment of expenses or combined award with respect to such works, the drainage board of such district shall once in every year, at a meeting of the board, fix the sum to be raised during the ensuing year for the payment of the said expenses, and shall assess the owners of lands within the 35 said district towards the payment of the said sum according to the proportions specified in that behalf in the said award; the several amounts so assessed shall be charged on such lands respectively, and shall be paid by the owners for the time being of such lands respectively, and such charges shall have the same priority as is 40

herein-before given to charges on lands under an apportionment of expenses award. A.D. 1884.

(2.) The drainage board shall have the same powers for the recovery of any sum charged under this section (herein-after referred to as a "maintenance rate") as are herein-before given to them for the recovery of a sum charged under an apportionment of expenses award; and a maintenance rate shall also be recoverable by Civil Bill, brought by the drainage board against the person or persons for the time being liable to pay the same.

- 10 47.—(1.) Where any land is or has been subject to any charge or annuity in respect of any works for arterial drainage or to any rates or assessments for the maintenance of any such works (whether or not such works were executed in pursuance of this Part of this Act) and the same land is injuriously affected owing to, the insufficient  
15 maintenance of the said works, the owner of such land (herein-after referred to as "the complainant") may serve a notice, signed by himself or his authorised agent, upon the drainage board or trustees of the drainage district in which such land is situate, setting forth the particular defects complained of in the main-  
20 tenance of the said works, and the particular land alleged to be injuriously affected by such insufficient maintenance, and calling upon the drainage board or trustees forthwith to cause the said defects to be remedied.

*Power to  
owner of  
land to  
enforce  
maintenance  
of works.*  
[39 & 40 Vict.  
c. 49, ss. 2-7,  
10.]

(2.) If the drainage board or trustees neglect for the space of  
25 *fourteen days* after the service of the said notice to remedy such defects, the following proceedings may be taken; that is to say,

- (a.) The complainant may make application to the Commissioners by memorial in writing setting forth the particulars of his complaint, and all such matters relating thereto as may be pro-  
30 scribed or required by the Commissioners;
- (b.) The Commissioners shall consider the memorial, and may, if they think fit, appoint an engineer or other competent person to inspect and report upon the subject thereof, and if necessary to furnish a specification and estimate of the probable cost of the necessary repair of the works. The Commissioners shall  
35 publish the report or the purport thereof or furnish a copy of the same or of the purport thereof to the drainage board or trustees, and may give notice to the drainage board or trustees calling upon them to show cause, within a period to be appointed in the notice (not being less than *fourteen days* after the  
40 service thereof), why the provisions of this Part of this Act

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should not be put in force with respect to the matters complained of:

(c.) The Commissioners shall take into consideration all such matters (if any) as are submitted to them by the drainage board or trustees within the period appointed as aforesaid, and 5 may make such inquiries as they think proper, and thereupon they may, if they think fit, make an order (herein-after referred to as a "maintenance order") declaring that the works of maintenance and repair therein specified ought to be forthwith carried out in pursuance of this Part of this 10 Act; and thereupon the Commissioners may proceed to carry out such works of repair and maintenance as they may deem necessary:

(d.) For the purpose of carrying out the said works of repair and maintenance, the Commissioners shall have all the powers 15 exercisable by the drainage board or trustees.

(3.) Such works of repair and maintenance may extend to and include the removal, reconstruction, or alteration of any existing bridge (not being a county bridge), culvert, or archway, which in the opinion of the Commissioners may be insufficient for the dis- 20 charge of the water in the district, thereby causing injury to any lands within such district.

*Power of  
Commissioners to  
enforce  
maintenance  
of works.*  
[39 & 40 Vict.  
c. 48, s. 18.]

48.—(1.) The Commissioners may from time to time cause inspection to be made by some engineer or other competent person of any works executed for arterial drainage (whether or not such works 25 were executed in pursuance of this Part of this Act), and if it appears from the report of the person so appointed that any such works have not been maintained in good order and repair, so as in the opinion of the Commissioners to be fit and proper for their intended purposes, or that any sudden breach or damage has occurred to any embank- 30 ment or other work for arterial drainage, the Commissioners may cause a notice to be served on the drainage board or trustees of the drainage district, calling upon them to execute such works of repair and maintenance as in the opinion of the Commissioners the circumstances of the case render necessary, (the nature of which 35 works shall be stated in such notice) within such period as is therein mentioned, and informing them that in default thereof such works will be executed by the Commissioners pursuant to the provisions of this Part of this Act.

(2.) In case such works are not executed in accordance with the 40 terms of such notice, the Commissioners, with the sanction of the Treasury, may execute all such works of repair and maintenance as

they may consider necessary, and for the purposes aforesaid the Commissioners shall possess all the powers exercisable by the drainage board or trustees.

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49. The expenses of and incidental to any works of repair and maintenance executed by the Commissioners in pursuance of this Part of this Act, including all costs and charges properly incurred by any complainant or the Commissioners in and about the obtaining and making a maintenance order, or preliminary or consequential thereto, or by the Commissioners in and about any inspection preliminary to the execution of such works, shall be charged in the manner following; that is to say,

Charging  
order for  
expenses of  
repair exe-  
cuted by  
Commis-  
sioners.  
[39 & 40 Vict.  
c. 49, s. 11.]

(1.) The Commissioners, upon completion of the works, or of any part thereof, may make an order, to be called a "charging order," specifying therein—

(a.) The amount of such expenses, as aforesaid, as are to be charged by such order; and

(b.) The lands to be charged with the payment of the said amount, and the owners of such lands; and

(c.) The proportions of such amount which are to be paid by the several owners, and charged upon their lands respectively; and

(d.) The time or times when such amount is to be paid; and

(e.) Such other matters (if any) as the Commissioners think fit;

and the Commissioners, in making such order, shall have regard to the award made in the district for which such order is made, so far as circumstances may admit:

(2.) In case the amount of money mentioned in a charging order is found insufficient, the Commissioners, by any further order, may from time to time charge any further sum in manner aforesaid for the purpose of the said works and the expenses incidental thereto; and thereupon such further sum shall be deemed and taken to be part of the amount charged by the original order, and rated and recovered accordingly:

(3.) The Commissioners may, if they deem it expedient, out of any moneys under their control and applicable to loans, and with the sanction of the Treasury, advance the amount mentioned in any charging order or orders to be expended on such works of repair and maintenance, or any part of such amount:

(4.) The amount specified in a charging order, with interest on any sum so advanced at such rate not exceeding five per cent. per annum from the date of such advance until repay-

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ment thereof as the Commissioners with the consent of the Treasury think fit, shall, from the date of the order, be charged upon the several lands specified in the order, and the owners of such lands, in the proportions in that behalf specified in the order; and such lands shall be so charged in like manner and 5 in the same priority in which lands may be charged with rates imposed by a drainage board for the maintenance of works of arterial drainage; and the said owners and their lands respectively shall be assessed, rated, and taxed in the proportions specified in the order: 10

(5.) In addition to the sums payable under any charging order, and such interest as aforesaid, there shall be paid to the Commissioners *one shilling in the pound* on the total amount of the same as and for receiver's fees thereon, to be charged, payable, and recoverable, in like manner as such sums and 15 interest as aforesaid: Provided that a person, or the land of such person, shall not be liable to such additional charge if such person pays the amount of every such sum and the interest thereon payable by him within *thirty-one* days next after the time appointed by the order for the payment thereof: 20

(6.) The Commissioners, for the purpose of assessing any sums payable under a charging order, with any such interest as aforesaid, and for the recovery of the same in accordance with the terms of the order, shall possess the same powers and remedies as are possessed by a drainage board for the purpose 25 of assessing and recovering a sum of money required by them for the maintenance of works for arterial drainage, including a right to recover any such sums by civil bill from the person or persons for the time being liable to pay the same.

Power to  
Commissioners to  
appoint a  
collector.  
[1884: 50 Vict.  
c. 49. s. 18.]

50.—(1.) The Commissioners may, if they think it necessary, by 30 warrant appoint a person to be the collector of any sums payable in pursuance of a charging order.

(2.) In case any person from whom any such sum is recoverable does not pay the same to the collector on demand, the collector shall serve on such person notice in writing, subscribed with the name 35 and place of abode of such collector, requiring payment of such sum within *six days* from the date of such notice, and expressing that within *six days* the same may be paid to the collector at his house or office; and if the same is not paid within such period of *six days*, then it shall be lawful for the said collector to levy the 40 same by distress and sale of the goods of such person wherever



such goods may be found; and the proceeds of such distress and sale shall be applied in payment of the expenses of such distress and sale, and in the next place in payment of the said sum, and the residue shall be paid to the owner of such goods.

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*Supplemental Provisions.*

51. An urban sanitary district within the meaning of the Public Health (Ireland) Act, 1878, may be included in a drainage district constituted in pursuance of this Part of this Act; and for the purpose of applying the provisions of this Part of this Act in the case of an urban sanitary district which has been so included in a drainage district, the following provisions shall have effect, that is to say:—

Provided as  
to urban  
sanitary  
district  
included in  
drainage  
district.

(1.) The urban sanitary authority shall be deemed to be the owner of the land comprising their district, and the provisions of this Part of this Act relating to owners of land shall so far as they are applicable apply accordingly:

(2.) The said authority shall have such number of votes in the election of members of the drainage board as may be specified in the provisional order constituting the drainage district, and such number shall be fixed by the Commissioners according to the estimated benefit to be derived by the said urban sanitary district from the proposed works:

(3.) The sums and maintenance rates from time to time payable by the said authority under an award, or charging order, or otherwise in pursuance of this Part of this Act, shall be paid as if such sums and rates were expenses incurred or payable by the said authority in the execution of the Public Health (Ireland) Act, 1878, for sanitary purposes:

41 & 42 Vict.  
c. 52.

Provided that an urban sanitary district shall not be included in a drainage district in pursuance of this section, until opportunity has been given to the sanitary authority to make any reasonable objections to the said sanitary district being so included; and the Commissioners shall not by their provisional order include the said sanitary district in a drainage district until they have duly considered such objections.

52.—(1.) The owner of any land included or proposed to be included in a drainage district may agree with the person occupying the said land as tenant that such tenant shall, for the purposes of this Part of this Act, be substituted for the owner.

Substitution  
of tenant for  
owner for  
purposes of  
this Part of  
Act.

(2.) If within the time limited for making objections to the report of the inspector sent by the Commissioners respecting the

[166.]

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proposed formation of a drainage district the owner of any land within the proposed district dissents from or does not assent to the formation of such district, the person occupying such land as tenant may apply to the Commissioners to be substituted for the said owner for the purposes of this Part of this Act; and if after receiving from the Commissioners notice of the said application the said owner does not within the prescribed period assent to the formation of the district, the Commissioners, after hearing any objection made by the said owner and any other person having any estate or interest in the land, and on its appearing to them—

(a.) that the proposed works for arterial drainage will effect immediately or prospectively an increase in the annual value of the said land proportionate to the sums likely to be charged thereon in respect of the expenses of the said works and the maintenance and repair thereof; and

(b.) that the amount charged on the said land under an award made in pursuance of this Part of this Act, or a substantial part of that amount, is likely to become payable during the continuance of the tenancy then current in the said land,

and having regard generally to the justice of the case, may, if they think fit, by order direct that the said tenant shall for the purposes of this Part of this Act be substituted for the owner of the said land, but without prejudice to the right of the owner to dissent from the formation of the drainage district.

(3.) Where in pursuance of this section the tenant of any land is substituted for the owner thereof for the purposes of this Part of this Act, the tenant for the time being of such land, during the continuance of the tenancy current at the time of such substitution, shall in respect of such land be vested with all the rights and be subject to all the liabilities and obligations of an owner for the purposes of this Part of this Act, and the owner shall during the same period be divested of such rights and exempt from such liabilities and obligations, but on the determination of the said tenancy the owner shall become vested with and subject to all such rights, liabilities, and obligations as aforesaid.

(4.) For the purposes of this section the words "tenant" and "tenancy" shall have the same meaning as in the Land Law (Ireland) Act, 1881; and the provisions of that Act respecting the determination of a tenancy shall apply in the case of a tenancy to which the provisions of this section are applicable.

44 & 45 Vict.  
c. 40.

53. The occupier (not being the owner, and not being for the purposes of this Part of this Act substituted for the owner,) of any land charged for the payment of any sum under an award or charging order, or of any maintenance rate, may pay any such sum or rate, and deduct the amount thereof from the rent payable by him to his immediate landlord, and the immediate landlord of any person making such deduction from his rent may, if he is not such owner as aforesaid, make the same deduction from the rent payable by him in respect of the same land: Provided that nothing herein contained shall authorise such deduction to be made in respect of any costs or expenses incurred in consequence of the nonpayment of any such sum or rate.

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Payment of  
charge by  
occupier.

54.—(1.) A drainage board in any district intended to be drained by means of pumping may from time to time contract with any person for the erection, maintenance, and repair of any pumping works and machinery necessary for that purpose, and may apply any funds under their control in discharge of the liabilities incurred by virtue of any such contract.

Contracts by  
drainage  
board for  
pumping  
works.  
[27 & 28 Vict.  
c. 72, ss. 4, 5.]

(2.) Any company or public body incorporated for the purpose of supplying water to any town or district may enter into any such contract as aforesaid with any drainage board, and may carry out the terms of such contract.

55. A drainage board may, if they think fit, for the prevention of dispute, and for the due regulation of the water in any water-course improved or made in pursuance of this Part of this Act, appoint a proper person for the regulation, opening, and closing of any floodgates, sluices, stopgates, or stops of any weir, dam, or other work connected with any mill or factory which may have been interfered with by the said board, or of any weir, dam, or other work belonging to them or under their control; and the person so appointed shall have full power to regulate, open, and close the same for the purposes aforesaid, subject to the control of the said board; and all expenses of maintaining the same and of remunerating the said person, shall be deemed to be part of the expenses of the maintenance of the works executed by the said board.

Drainage  
board to  
provide for  
regulation of  
floodgates,  
&c.  
[5 & 6 Vict.  
c. 89, s. 60.  
26 & 27 Vict.  
c. 88, s. 19.]

56.—(1.) A drainage board, or any person authorized by them, after three days previous notice in writing given to the occupier, may search for, dig, take, and carry away materials out of any land for

Power to  
dig for  
materials.  
[5 & 6 Vict.  
c. 89, s. 55.  
16 & 17 Vict.  
c. 130, s. 31.  
26 & 27 Vict.  
c. 88, s. 19.]

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the purpose of any works which they are authorised to execute, making such compensation for the surface damage done to the owners, lessees, or occupiers of such lands, according to their respective interests therein, as may be agreed on; but in all cases where a drainage board take materials from an open quarry bank 5  
 side demised to any person, with liberty to raise, sell, and dispose of the materials therein, the value of such materials shall be paid for by the said board as may be agreed on; and in case of dispute concerning the amount of such compensation, or the value of such materials, proceedings may be taken in a summary manner for 10  
 ascertaining such amount or value:

Provided that such proceedings shall not be taken until the whole extent of the damage to be done by the said board, or the whole of the materials to be taken by them, has been ascertained.

(2.) If, by reason of the searching for, digging, or getting any 15  
 materials as aforesaid, any pit or hole is made in any common or other land wherein such materials are found, the drainage board shall forthwith, if necessary for the security of the public, or if the owner or occupier so requires, cause the same to be sufficiently fenced off during such time as the said pit or hole is used, and shall, 20  
 within six days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down, or fenced off, and so continued; and if the same is likely to be further useful, the said board shall cause the same to be sufficiently fenced off. 25

Removal and  
 rebuilding  
 of bridges  
 under public  
 roads.  
 [26 & 27 Vict.  
 c. 88, ss. 72-  
 76.]

57.—(1.) If the Commissioners are of opinion that, for the purpose of carrying out any works for arterial drainage, it is necessary to rebuild or alter any existing bridge, culvert, or archway, for the discharge of water under any public road, they may give a certificate in writing to the drainage board to that effect; and thereupon the 30  
 drainage board, to such extent as they may be authorised by the said certificate, may take down and remove or alter such bridge, culvert, or archway, and shall (when in the opinion of the Commissioners necessary) construct a temporary bridge, culvert, or archway in the place of that so to be taken down and removed, or 35  
 altered, and support and maintain the same until the completion of the works necessary for the restoration to public use of such bridge, culvert, or archway.

(2.) Where an existing bridge, culvert, or archway is taken down and removed, the drainage board shall construct a new bridge, culvert, 40

or archway, with the necessary roads of approach thereto, according to such plan, specification, and estimate as may be approved by the Commissioners.

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(3.) The expense of any work executed in pursuance of this section shall (save as hereafter in this section mentioned) form part of the costs of the works for arterial drainage executed by the said drainage board.

(4.) Where the Commissioners are of opinion—

10 (a.) That the bridge, culvert, or archway so taken down and removed or altered was so constructed as to be an impediment to the natural discharge of the water, having reference to the watercourse in its condition before the execution of the said works for arterial drainage; or

15 (b.) That public advantage, by improved means of communication or otherwise, is or will be derived from the rebuilding or alteration of the said bridge, culvert, or archway,

the Commissioners may issue a certificate under their seal declaring the amount which the county within which such works are situate ought to contribute towards the expenses so incurred by the  
20 drainage board; and upon such amount, or from time to time any part thereof, being certified by the Commissioners to the secretary of the grand jury of such county to be due, the same proceedings shall be taken for the payment and recovery of such amount, or such part thereof, as if it were a sum duly certified to such  
25 secretary by the Commissioners to be due to the consolidated fund in respect of a loan made by the Commissioners on the security of a presentment of the said grand jury :

Provided that, where any bridge, culvert, or archway so rebuilt or altered is over any watercourse forming a boundary between two  
30 counties, the amount specified in any such certificate as aforesaid shall be payable by the said counties in equal moieties, and upon a moiety of such amount, or from time to time any part of such moiety, being so certified as aforesaid by the Commissioners to the secretary of the grand jury of the county by which such moiety is  
35 payable, the same proceedings as aforesaid shall be taken for the payment and recovery of the said moiety or part thereof.

58. Any person authorized by virtue of an Act of Parliament to navigate on or use any river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation on such river  
40 or canal, or the use of such dock, harbour, or basin, may, at his own

Power to  
owners of,  
canals, &c. to  
alter works.  
[26 & 27 Vict.  
c. 88. s. 70.]

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expense, and on substituting other sewers, drains, culverts, and pipes equally effectual, and certified as such by the surveyor of the drainage board, take up, divert, or alter the level of sewers, drains, culverts, and pipes constructed by the drainage board, and passing under or interfering with or with the improvement or alteration of such river, canal, dock, harbour, or basin, or the towing-path thereof and do all such matters and things as may be necessary for carrying into effect such taking up, diversion, or alteration.

Provision in  
case of  
alteration of  
local bound-  
ary.  
[26&27 Vict.  
c. 88, s. 79.]

59. Where, in the exercise of any powers given by this Part of this Act, any watercourse forming a boundary line between two or more counties, baronies, unions, parishes, or other areas defined by law, is in any way altered so as to affect its character as such boundary line, the drainage board, under whose authority the alteration is made, shall forthwith report the same to the Lord Lieutenant in Council; and thereupon

- (1.) If the Lord Lieutenant in Council is satisfied that a new boundary line may be adopted with convenience, he shall by notice to be published in the Dublin Gazette declare that the watercourse as altered shall either wholly or in part be substituted for the former boundary line; and the limits of the areas of which the watercourse when unaltered was the boundary shall from the date mentioned in such notice be deemed to be varied accordingly; and
- (2.) If the Lord Lieutenant in Council is of opinion that a new boundary cannot be adopted with convenience, he shall require the drainage board to set out a boundary upon the line of the watercourse as it existed before its alteration in such manner as he may direct and approve.

A copy of the Dublin Gazette containing a notice as above mentioned in respect of any alteration of boundary made in pursuance of this section shall be admitted as evidence in all courts of justice of the fact of such alteration having been made.

Penalty for  
creating ob-  
structions or  
nuisances.  
[26&27 Vict.  
c. 88, s. 71.]

60.—(1.) It shall not be lawful to cause or permit any obstruction in or otherwise injuriously to affect any watercourse in respect of which any works have been commenced or executed by a drainage board, or, without the consent of the drainage board, to cause any filthy or unwholesome water, or washings of manufactories or mines, or other foul or poisonous liquid, to flow into any such watercourse.

(2.) Any person offending against this section shall be liable to a penalty not exceeding five pounds, and a further penalty of forty

shillings for every day during which the offence is continued, to be recovered in a summary manner. A.D. 1884.  
[37 & 38 Vict.  
c. 72, s. 8.]

(3.) Nothing in this section shall prevent any person having a legal right to make any such obstruction or do any such injury, or to cause any such water, washing, or liquid to flow as aforesaid, from exercising such right; and nothing in this section shall subject any person exercising any legal right vested in him to any penalty.

61.—(1.) Any person who wilfully obstructs any person acting under the authority of a drainage board in the lawful exercise of any powers vested in such board under this Part of this Act, and any person who in any way injures or obstructs or permits to be injured or obstructed any work constructed, maintained, or repaired in pursuance of this Part of this Act, shall for each offence be liable to a penalty not exceeding *ten pounds* to be recovered in a summary manner. Penalty for obstructing drainage board or injuring works.  
[29 & 30 Vict.  
c. 49, s. 23.]

(2.) Where the banks of any watercourse made, opened, widened, deepened, or improved, in pursuance of this Part of this Act, are broken down or damaged by cattle grazing or being upon any lands shuttling upon such watercourse, by reason whereof such watercourse is injured or obstructed, the person or persons occupying the lands at the time of such damage shall be deemed to have committed an offence under this section.

(3.) Any penalty recovered under this section shall be paid to the drainage board.

62. All costs, charges, and expenses incurred by a drainage board in instituting or defending any legal proceedings in their character of a drainage board may be defrayed out of the rates leviable by them, and a member of a drainage board shall not be personally liable in respect of any such costs, charges, or expenses. Costs of legal proceedings by drainage board.  
[26 & 27 Vict.  
c. 88, s. 65.]

63.—(1.) An action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Part of this Act, or in respect of any alleged neglect or default in the execution of this Part of this Act, shall not be or be instituted unless it is commenced within *twelve months* next after the act or thing is done or omitted, or, in case of a continuance of injury or damage, within *twelve months* next after the ceasing thereof. Protection of persons acting under this part of Act.  
[See 26 & 27 Vict. c. 88, s. 67.]

(2.) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded.  
49 If the action was commenced after such tender, or is proceeded

A.D. 1884. with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action. 5

Compensation to be ascertained as herein provided.  
[36 & 37 Vict. c. 88, s. 31.]

64. A person shall not be entitled to take any legal proceedings for the recovery of any compensation or damages in respect of any property in any drainage district by reason of any works executed 10 or to be executed by the drainage board, but his right to any compensation or damages in respect of such property, and the amount thereof, shall be ascertained and be recoverable in the manner herein-before provided, and not otherwise.

Annual value of land how ascertained.  
[36 & 37 Vict. c. 88, s. 15.]

65. For the purpose of the scale set forth in the first schedule to 15 this Act, and for the purpose of ascertaining the proportion of assenting or dissenting owners under any of the provisions of this Part of this Act, and for the purpose of an award by the Commissioners under this Part of this Act, the annual value of any lands shall be determined by the schedule accompanying the 20 petition for the formation of the drainage district, as signed by the inspector sent by the Commissioners; and such schedule as signed by the said inspector shall be binding on all persons concerned.

Saving of existing liabilities to repair.  
[36 & 37 Vict. c. 88, s. 32.]

66. The liability of any person whomsoever to defray or con- 25 tribute towards the expense of making, completing, altering, repairing, or maintaining any sewer or drain or any walls or works for protecting any land against the force or encroachments of the sea or of any river, or doing any other work within the jurisdiction of a drainage board, shall continue, and the same may be enforced 30 as if this Act had not passed.

Saving of rights of canal owners and others.  
[36 & 37 Vict. c. 88, ss. 63, 69.]

67. Nothing in this Part of this Act shall authorise any drainage board—

- (1.) To interfere with any sewers or other works made before or after the passing of this Act and used for the purpose of drain- 35 ing, preserving, irrigating, or improving land under any public, local, or private Act of Parliament, so as injuriously to affect the same, or
- (2.) To interfere with any lake, river, canal, dock, harbour, lock, reservoir, or basin, or the supply of water thereto, so as in- 40 juriously to affect the navigation thereon, or the use or main-



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tenance thereof, or to interfere with any towing path so as to interrupt the traffic thereof, in any case where any person by virtue of an Act of Parliament or otherwise is entitled to navigate on or use such lake, river, canal, dock, harbour, lock, reservoir, or basin, or by virtue of an Act of Parliament is entitled to the receipt of any tolls or other dues in respect of the navigation on or use of the same, or

(3.) To interfere with the works or supply of water of any person supplying water to any town or place, so as injuriously to affect the same, or

(4.) To execute any works in, through, or under any wharfs, quays, docks, harbours, or basins, belonging to the proprietor of any inland navigation constituted by Act of Parliament or otherwise, or for the use of which he is entitled by virtue of any Act of Parliament or otherwise to demand any tolls or dues,

without the consent of such person or proprietor as herein-before respectively mentioned, such consent to be expressed in writing, in the case of individuals under their hands, in the case of a corporation under their common seal, and in the case of a company, undertakers, commissioners, conservators, or trustees, under the hand of their clerk, or other duly authorised officer or agent.

Nothing in this Part of this Act shall authorise any drainage board to divert any river in such manner as to injure or to diminish the supply of water to any harbour without the consent of the conservators or any authority having the management of such harbour.

68. The provisions of Part I. of this Act relating to the restriction on the power of executing works and making loans in certain cases without the previous consent of the Board of Trade, or of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, and the cases in which such consent must be obtained before the execution of any works and the granting of any loan, and the mode of signifying such consent, shall be incorporated with this Part of this Act.

Incorporation of certain provisions of Part I. of Act. [25 & 27 Vict. c. 88, s. 51, 10 Vict. c. 38, s. 65.]

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## PART III.

## DEFINITIONS AND REPEAL.

Definition of  
improvement  
of land.

69. A loan or work for the improvement of land shall be deemed to be a loan or work for the following purposes or any of them; that is to say, 5

[10 Vict.  
c. 32, s. 4.]

(1.) The drainage of any lands by any such means as the Commissioners approve:

(2.) Subsoiling, trenching, or otherwise deepening and improving the soil:

(3.) Irrigation or warping of land: 10

(4.) Embanking lands from the sea or tidal waters or rivers:

(5.) Enclosing or fencing any land, or improving the fences, drains, streams, or watercourses of any land:

(6.) The reclamation of waste or other land, or clearing lands of rocks and stones: 15

[13 & 14 Vict.  
c. 31, s. 8.  
29 & 30 Vict.  
c. 40, s. 5.]

(7.) Making farm roads, erecting farm buildings, and building or enlarging farm dwelling-houses in connexion with farm offices and buildings:

[23 Vict.  
c. 19, s. 1.]

(8.) The erection and improvement of dwelling-houses for labourers: 20

[29 & 30 Vict.  
c. 40, s. 5.  
15 & 16 Vict.  
c. 34.]

(9.) Planting for shelter:

(10.) The erection of buildings suitable to scutch mills for flax, and the formation of watercourses and weirs necessary for providing water power for the same;

Provided that nothing in this section shall extend to loans for the erection or supplying of any water-wheel or any machinery for any such scutch mill for flax: 25

[29 & 30 Vict.  
c. 40, s. 5.]

(11.) The execution of all such works as the Commissioners may consider necessary for carrying into effect any of the purposes above mentioned, or for deriving the full benefit thereof. 30

Definition of  
arterial  
drainage.  
[See 26 & 27  
Vict. c. 28,  
s. 15.]

70. The expression "works for arterial drainage"—

(1.) means any works for the following purposes or any of them; that is to say,

(a.) cleansing, repairing, and otherwise placing and maintaining in a due state of efficiency any watercourse or outfall for water, or any wall, bank, dam, or other defence against water, and 35

(b.) deepening, widening, straightening, and otherwise improving any watercourse or outfall for water, and removing any milldam, or other dam, weir, or other obstruction to any watercourse or outfall for water, and raising, widening, and otherwise altering any wall, bank, milldam, or other dam or other defence against water, and

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(c.) making any new watercourse or outfall for water, and erecting any new bank, dam, or defence against water, and filling up or reopening any disused watercourse, and

(2.) includes the erection of any machinery and the doing of any acts and things necessary or proper for effecting the above-mentioned purposes or any of them, or for the purpose of any works proper for the drainage of land by pumping.

[27 & 28 Vict.  
c. 72. s. 3.]

71.—(1.) Subject as in this section mentioned, the following persons shall be deemed to be owners of land for the purpose of the provisions of this Act relating to a loan or work for the improvement of land, and relating to the formation of a drainage district, and the constitution of a drainage board, and the maintenance of any works for arterial drainage, and the expenses, charges, and rates of and in relation to such works and the maintenance thereof; that is to say,

Definition of  
owner of  
land.[Compare  
10 Vict. c.  
32. ss. 6-8;  
26 & 27 Vict.  
c. 88. s. 9.  
5 & 6 Vict.  
c. 89. s. 23.]

(a.) Any person entitled for his own benefit, for an estate in fee, to the possession or receipt of the rents and profits of any freehold land, whether such land is or is not subject to incumbrances:

(b.) Any person absolutely entitled in possession, at law or in equity, for his own benefit to a beneficial lease of land for any term of years absolute of which not less than twenty-five years are unexpired, or to a lease not being a beneficial lease, for any term of years absolute, of which not less than forty years are unexpired, whether such land is or is not subject to incumbrances; but a lease shall not be deemed to be a beneficial lease if the rent reserved thereon exceeds one-third part of the full annual value of the land demised by such lease:

(c.) Any person entitled under any existing or future settlement, at law or in equity, for his own benefit, and either absolutely or for the term of his own life or the life of any other person, to the possession or receipt of the rents and profits of land of any tenure, whether subject or not to incumbrances, in which the estate for the time being subject to the trusts of the settlement is an estate for lives or years renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an

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estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates :

- (d.) Any body corporate, any corporation sole, any trustees for charities, and any Commissioners or trustees for ecclesiastical, collegiate, or other public purposes entitled at law or in equity, 5 and whether subject or not to incumbrances, in the case of freehold land to an estate in fee, and in the case of leasehold land to a lease for an unexpired term of not less than sixty years.

(2.) For the purposes of Part I. of this Act, any person absolutely entitled in possession, at law or in equity, for his own benefit to a 10 lease of land for two or more lives in being, or for any term of years determinable on any two or more lives in being, or for any term of years absolute whereof at least twenty-five years are unexpired shall also be deemed to be an owner of land :

Provided that an application by any such person under Part I. of 15 this Act shall not be entertained by the Commissioners unless such person has given notice in the prescribed manner to his immediate landlord or to the person entitled, on the determination of such lease as is mentioned in this section, to the next estate or interest in the land, of his intention to make such application. 20

(3.) Where several persons in succession have in any land such estates or interests as would entitle each of them to be deemed an owner under the foregoing provisions of this section, the person in actual occupation of the said land shall be deemed the owner thereof, or in case such last-mentioned person is not entitled to be 25 deemed an owner, then the person having the first such estate or interest in reversion or remainder as may entitle him to be deemed an owner under the foregoing provisions of this section shall be deemed the owner of the said land :

[10 Vict.  
c. 32. s. 6.]

Provided that in any case where the person for the time being 30 deemed the owner of any land within the meaning of this subsection, neglects or omits, within the prescribed period after the prescribed notice has been given to him, to make an application for a loan for the improvement of such land, the person having in such land the next such estate or interest as may entitle him to be 35 deemed an owner under this section, may make an application for a loan for the improvement of such land, and shall be deemed the owner thereof for the purposes of Part I. of this Act.

(4.) Joint tenants, tenants in common, and coparceners of any land, shall, in respect thereof, be accounted as one person, and shall 40 together constitute the owner thereof for the purposes of this section : Provided that any such person or persons interested in or

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possessing more than one half of such land shall, subject to the provisions aforesaid, be entitled to make such applications and do all such acts as an owner may make and do under this Act; and any such application or act, and the proceedings thereon, shall be  
5 binding upon the other persons interested in such lands, and upon their estates and interests therein.

(5.) Where an owner as herein-before defined is a minor, or of unsound mind, or a married woman, the guardian, committee, or husband, as the case may be, of such owner shall be deemed to be  
10 the owner within the meaning of this section; subject to this proviso, that a married woman entitled for her separate use, and not restrained from anticipation, shall for the purposes of this Act be treated as if she were not married.

72. In this Act the following words and expressions shall have  
15 the meanings hereby assigned to them, unless there be something in the context repugnant thereto; that is to say,

General  
definitions.

"Lord Lieutenant" includes the lords justices or other chief governor or governors of Ireland for the time being:

"Treasury" means the Commissioners of Her Majesty's Treasury:

20 "Commissioners" means the Commissioners of Public Works in Ireland:

"High Court" means Her Majesty's High Court of Justice in Ireland:

"Land" includes any right of water:

25 "Watercourse" includes any river, stream, drain, sewer, or passage through which water flows:

"Prescribed" means prescribed by regulations made in pursuance of the Board of Works (Ireland) Act, 1884:

30 "Settlement" includes any Act of Parliament, will, deed, or other assurance whereby particular estates or particular interests in land are created, with remainders or interests expectant thereon:

"Person" includes any body of persons corporate or unincorporate.

73.—(1.) The Acts specified in the Second Schedule to this Act  
35 shall be repealed from and after the commencement of this Act to the extent in the third column of the said schedule mentioned; but the said repeal shall not affect any powers, duties, and liabilities existing at the commencement of this Act in relation to the maintenance or repair of any works for arterial drainage by any trustees  
40 of a drainage district, and in relation to the appointment of new trustees for the purpose of such maintenance or repair; nor shall the said repeal affect—

Repeal, and  
provision as  
to references  
to repealed  
Acts.

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- (a.) Any right, obligation, or liability acquired, accrued, or incurred under or in accordance with any Act or enactment hereby repealed; nor
- (b.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Act or enactment hereby repealed; nor
- (c.) Any power, investigation, legal proceeding, or remedy, in respect of any such right, obligation, liability, penalty, forfeiture, or punishment, as aforesaid; and any such power, investigation, legal proceeding, and remedy, may be exercised, and carried on, and had, as if this Act had not passed.
- (2.) From and after the commencement of this Act, and subject as aforesaid,—
- (a) the provisions of Part I. of this Act shall be substituted for the Acts and enactments mentioned in the first part of the second schedule to this Act and hereby repealed; and any reference in any Act to any of the said Acts or enactments, or to any enactment in any of the said Acts, or to the Commissioners for the execution of any of the said Acts, shall, so far as is consistent with the tenor thereof, be deemed to refer to Part I. of this Act, or to the corresponding enactment in Part I. of this Act, or to the Commissioners as defined in this Act; and
- (b) the provisions of Part II. of this Act shall be substituted for the Acts mentioned in the second part of the said second schedule and hereby repealed; and any reference in any Act to any of the said Acts, or to any enactment in any of the said Acts, or to the Commissioners for the execution of any of the said Acts, shall, so far as is consistent with the tenor thereof, be deemed to refer to Part II. of this Act, or to the corresponding enactment in Part II. of this Act, or to the Commissioners as defined in this Act.

## THE FIRST SCHEDULE.

A.D. 1814.

SCALE OF VOTING AT ELECTION OF MEMBERS OF DRAINAGE  
BOARD.

5 If the lands of the elector within the drainage district for which the election is held are of an annual value of less than fifty pounds, he shall have one vote.

If such lands are of an annual value of fifty pounds and less than one hundred pounds, he shall have two votes.

10 If such lands are of an annual value of one hundred pounds and less than one hundred and fifty pounds, he shall have three votes.

If such lands are of an annual value of one hundred and fifty pounds and less than two hundred pounds, he shall have four votes.

If such lands are of an annual value of two hundred pounds and less than two hundred and fifty pounds, he shall have five votes.

15 If such lands are of an annual value of two hundred and fifty pounds and less than five hundred pounds, he shall have six votes.

If such lands are of an annual value of five hundred pounds and less than one thousand pounds, he shall have eight votes.

20 If such lands are of an annual value of one thousand pounds or upwards, he shall have ten votes.

## RULES AS TO ELECTION OF MEMBERS OF DRAINAGE BOARD.

1. The chairman of the board of the previous year, or some person appointed by him, shall be the returning officer.

2. If at any time, from any default of such chairman, or from any  
25 reason, there is no returning officer, or such returning officer is unwilling or unable to act, the members of the board of the preceding year may appoint a returning officer in his stead.

3. The election of new members shall take place on the first Thursday, or on such other day as may be appointed by the board,  
30 in September in every year, excepting the year in which the order of the Commissioners is made.

4. On every occasion of the election of new members of the board the returning officer shall convene a meeting of the electors for the purpose of such election, and shall give notice of such meeting, and  
35 of the time and place at which it is to be held—

(a.) by advertisement in some newspaper or newspapers circulating in the district, and

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(5.) by causing a copy of such notice to be affixed to the outer door of the principal office of the board.

Such advertisement shall be published and such copy shall be fixed not less than fourteen days before the day appointed for the election.

5. The returning officer shall preside and regulate the proceedings at such meeting; and such meeting shall, so far as relates to the nomination of candidates, be deemed to be at an end at the expiration of two hours from the time appointed for the holding of such meeting.

6. At any such meeting any qualified person or persons may, with his or their consent, be nominated by any elector, and seconded by any other elector, as a member or members of the board in the place of any retiring member or members.

7. If more candidates are proposed than the number to be elected, the returning officer shall forthwith, in such manner as appears to him most convenient, ascertain the number of votes for such candidates, and the election and return of such candidates shall be determined by the majority of the votes; but if no more candidates are proposed than the number to be elected, a declaration by the returning officer that the candidates are elected members of the board shall be evidence of the fact.

8. For the purpose of ascertaining the votes of the electors, the returning officer may, if he thinks fit, or if it is necessary or expedient, hold an adjourned meeting of the electors at such time and place as he may fix and publicly announce at such first meeting.

9. Votes may be given either personally or by proxy. A proxy shall be appointed under the hand of the appointer, but no person shall be appointed a proxy unless he is a qualified elector.

10. The returning officer shall cause to be entered in the polling books to be kept for that purpose the name and address of every voter, and the manner in which he votes.

11. After the election the returning officer shall, as soon as possible, publish the names of the candidates elected as herein mentioned :—

(a.) by advertisement in some newspaper or newspapers circulating in the district, and

(b.) by causing a list of such candidates to be affixed to the outer door of the principal office of the board.



## RULES AS TO PROCEEDINGS OF DRAINAGE BOARD.

A.D. 1894.

1. The drainage board shall meet together for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions:—That

(a.) No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business:

(b.) Every question shall be decided by a majority of votes of the members present and voting on that question:

(c.) The names of the members present, as well as of those voting upon each question, shall be recorded.

2. The board shall, at their first meeting, and afterwards from time to time at their first meeting after each annual election, appoint one of their number to be chairman for the year following such choice.

3. If any casual vacancy occurs in the office of chairman, the board shall, as soon as they conveniently can after the occurrence of such vacancy, choose some member of their number to fill such vacancy, and every such chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.

4. If at any meeting the chairman is not present at the time appointed for holding the same, the members present shall choose some one of their number to be chairman of such meeting.

5. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

6. A committee of the board may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

7. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present and voting; and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

A.D. 1884.

8. The board shall cause minutes to be made in books provided for the purpose:—

- (a.) Of all the appointments of officers made by the board;
- (b.) Of the names of the members present at each meeting of the board, and of committees of the board;
- (c.) Of all orders made by the board, and by committees of the board;
- (d.) Of all resolutions and proceedings of meetings of the board, and of committees of the board.

Any such minutes, if signed by any person purporting to be the chairman of any meeting of the board, or of a committee of the board, shall be receivable in evidence without any further proof.

## THE SECOND SCHEDULE.

### FIRST PART.

#### *Improvement of Land Acts.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
10 Vict. c. 32. -	An Act to facilitate the Improvement of Landed Property in Ireland.	The whole Act.
12 & 13 Vict. c. 59. -	An Act to amend an Act of the tenth year of Her Majesty, for facilitating the Improvement of Landed Property in Ireland.	The whole Act. 30
13 & 14 Vict. c. 31. -	An Act to authorise further Advances of Money for Drainage, and the Improvement of Landed Property in the United Kingdom, and to amend the Acts relating to such Advances.	Section eight. 25
15 & 16 Vict. c. 34. -	An Act to extend the Act to facilitate the Improvement of Landed Property in Ireland and the Acts amending the same, and the erection of Scotch Mills for Flax in Ireland.	The whole Act. 30
23 Vict. c. 19. -	An Act to extend the Act to facilitate the Improvement of Landed Property in Ireland, and the Acts amending the same, to the erection of Dwellings for the Labouring Classes in Ireland.	The whole Act. 35
25 & 26 Vict. c. 39. -	An Act to amend and enlarge the Act for the Improvement of Landed Property in Ireland.	The whole Act.
29 & 30 Vict. c. 40. -	An Act to authorise a further Advance of Money for the Purposes of Improvement of Landed Property in Ireland.	The whole Act. 40
40 & 41 Vict. c. 37. -	The Public Works Loans (Ireland) Act, 1877.	Section seven.

## SECOND PART.

A.D. 1884.

*Arterial Drainage Acts.*

Section and Chapter.	Title or Short Title	Extent of Repeal.
5 1 & 2 W.B. 4. c. 37. -	An Act to empower Landed Proprietors in Ireland to sink, unbank, and remove Obstructions in Rivers.	The whole Act.
5 & 6 Vict. c. 89. -	An Act to promote the Drainage of Lands, and Improvement of Navigation and Water Power in connection with such Drainage, in Ireland.	The whole Act.
10 9 Vict. c. 4. -	<i>An Act the title of which begins with the words,—An Act to amend, and ends with the words,—during the present year.</i>	The whole Act.
15 16 & 17 Vict. c. 130. -	An Act to amend the Acts for promoting the Drainage of Lands and Improvements in connection therewith in Ireland.	The whole Act.
26 & 27 Vict. c. 98. -	The Drainage and Improvement of Lands Act (Ireland), 1863.	The whole Act.
20 27 & 28 Vict. c. 72. -	An Act to explain certain provisions contained in the Drainage and Improvement of Lands (Ireland) Act, 1863.	The whole Act.
28 & 29 Vict. c. 52. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1865.	The whole Act.
25 29 & 30 Vict. c. 49. -	The Drainage Maintenance Act, 1866.	The whole Act.
32 & 33 Vict. c. 72. -	The Drainage and Improvement of Lands Amendment Act (Ireland) 1869.	The whole Act.
35 & 36 Vict. c. 31. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1872.	The whole Act.
37 & 38 Vict. c. 32. -	The Drainage and Improvement of Lands Amendment Act (Ireland), 1874.	The whole Act.
30 41 & 42 Vict. c. 59. -	The Drainage and Improvement of Lands (Ireland) Act, 1878.	The whole Act.
43 & 44 Vict. c. 27. -	The Drainage and Improvement of Lands (Ireland) Act, 1880.	The whole Act.

# Land Improvement and Arterial Drainage (Ireland).

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## B I L L

To consolidate and amend the Acts for facilitating the Improvement of Landed Property, and for the Drainage and Improvements of Lands in Ireland.

*(Prepared and brought in by  
Mr. Courtney and Mr. Parnell.)*

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*Ordered, by The House of Commons, to be Printed,  
3 April 1884.*

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